

ZB# 93-14

Pasquale Mugnano

7-1-20

Public Hearing:
Oct. 25, 1993. Cont'd.
Motion to Close -
Daniel - Use.

Prelim.

Sept. 10, 1990.

Tabled. - to get copy &
review minutes for
better understanding
by Ap.

2nd Prelim:

May 11, 1992.

- ① Bd. requested
proof of residence
being a 2 family
before zoning.
- ② Copies of C.O. orig.
Motion to table.
for addl. info.
(Apps. furnished)

(Copy of 5/11/92 minutes
furnished to Applicant on 6/22/92)

3rd. Preliminary:

May 24, 1993.

Need Copies of:

- ① Need at here.
- ② Title Report - none available
- ③ Photos of house
front, side & where
Barber shop -
Up & down Union Ave
- ④ Fees: ① 50.00 ~~at 1st~~
② 500.00 ~~at 2nd~~
- ⑤ OC PD ~~Mugnano~~ ~~sent 6/25/93~~
- ⑥ Short form EAT ~~done~~

Public Hearing:

June 28, 1993.

Adjourned - to Sept. 13th.

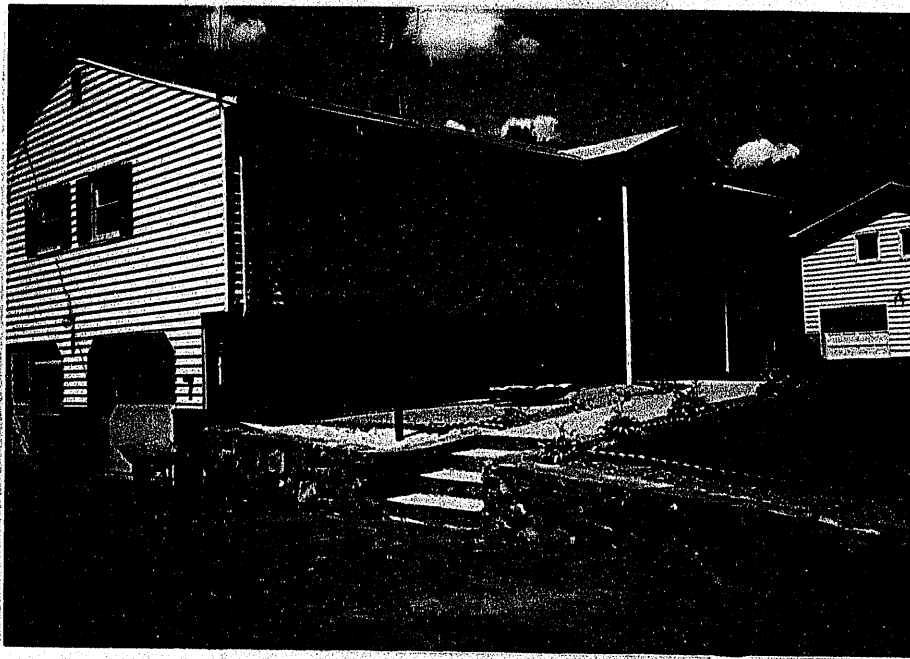
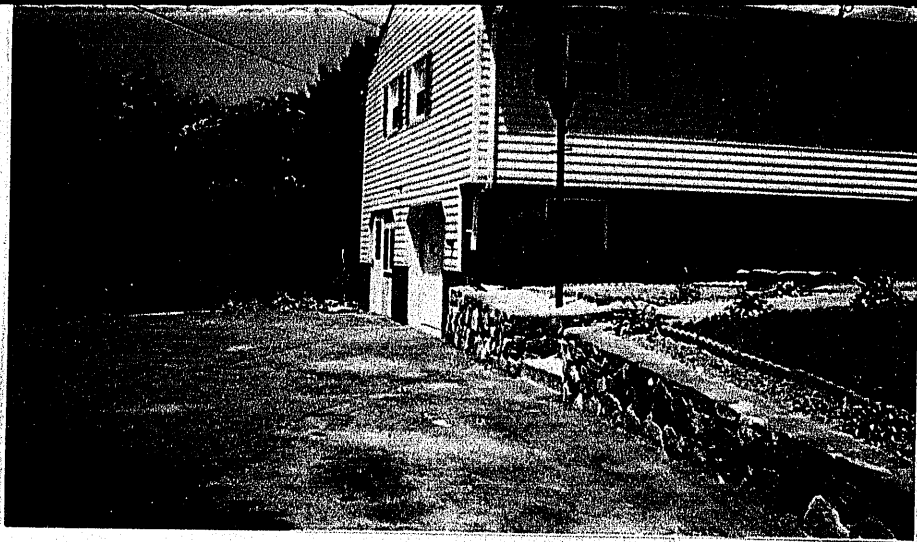
Sept. 13, 1993. - adj. to

~~Applicant did not show~~
Sept. 27, 1993 - Letter from

Postponed Jim Loeb for minutes.

#90-26 - Mugnano,
#93-14 Pasquale F.
use - beauty shop (R-4)





TOWN OF NEW WINDSOR
555 Union Avenue
New Windsor, NY 12550

GENERAL RECEIPT

13412

Received of New York Unisex Center June 14 19 93

Fifty and 00/100 DOLLARS

For Zoning Board #93-14

DISTRIBUTION:

FUND	CODE	AMOUNT
CP# 1493		\$50.00

By Pauline H. Townsend
Town Clerk

Title

APPLICATION FEE (DUE AT TIME OF FILING OF APPLICATION)

APPLICANT: Mugnano, Pasquale
2 Cimarelli DriveFILE # 93-14 (90-26)

RESIDENTIAL: \$50.00

COMMERCIAL: \$150.00

APPLICATION FOR VARIANCE FEE \$ 50.00 paid c/c 1/4/93ESCROW DEPOSIT FOR CONSULTANT FEES \$ 500.00 9/4/93

DISBURSEMENTS -

paid c/c
#1492.

STENOGRAPHER CHARGES:

PRELIMINARY MEETING - PER PAGE	5/4/92 - 8 pages	\$	36.00
2ND PRELIM. MEETING - PER PAGE	5/24/94 - 6 "	\$	27.00
3RD PRELIM. MEETING - PER PAGE		\$	

PUBLIC HEARING - PER PAGE	6/28/93 - 6 pages	\$	27.00
PUBLIC HEARING (CONT'D) PER PAGE	9/13/93 - 13 pages	\$	58.00
"	9/27/93 - 2 pages		9.00
"	10/25/93 - 2 pages		9.00

TOTAL \$ 166.50

ATTORNEY'S FEES:

PRELIM. MEETING -	1.0	HRS.	9/10/90	\$	
2ND PRELIM.	.4	HRS.	5/11/92	\$	
3RD PRELIM.	.1	HRS.	5/24/93	\$	

PUBLIC HEARING	1.3	HRS.	6/28/93	\$	
PUBLIC HEARING	.0	HRS.	(CONT'D) 2/12/93	\$	
"	.3		9/13/93		
"	.2		9/27/93		
"	0		10/25/93		

FORMAL DECISION	2.5	HRS.		\$	
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TOTAL HRS.	3.8	@ \$150.00	PER HR.	\$	570.00
TOTAL				\$	570.00

MISC. CHARGES:

TOTAL \$ 736.50

LESS ESCROW DEPOSIT . . .	\$	500.00	addl. fee
(ADDL. CHARGES DUE) . . .	\$	236.50	due
REFUND TO APPLICANT DUE . .	\$		owing

(ZBA DISK#7-012192.FEE)

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE

93-14

Date: 05/25/93

I. Applicant Information:

- (a) MUGNANO, PASQUALE, 2 Cimorelli Drive, New Windsor, N.Y. x
(Name, address and phone of Applicant) (Owner)
- (b) -
(Name, address and phone of purchaser or lessee)
- (c) -
(Name, address and phone of attorney)
- (d) -
(Name, address and phone of contractor/engineer/architect)

II. Application type:

- ☒ Use Variance ☐ Sign Variance
- ☐ Area Variance ☐ Interpretation

III. Property Information:

- (a) R-4 2 Cimorelli Drive 7-1-20 165x169+
(Zone) (Address) (S B L) (Lot size)
- (b) What other zones lie within 500 ft.? None
- (c) Is a pending sale or lease subject to ZBA approval of this application? No
- (d) When was property purchased by present owner? 7/14/75
- (e) Has property been subdivided previously? No
- (f) Has property been subject of variance previously? No
If so, when? -
- (g) Has an Order to Remedy Violation been issued against the property by the Building/Zoning Inspector? n/a
- (h) Is there any outside storage at the property now or is any proposed? Describe in detail: n/a
- _____
- _____
- _____

IV. Use Variance.

- (a) Use Variance requested from New Windsor Zoning Local Law, Section 48-9, Table of Use/ Regs., Col. A/M, to allow:

(Describe proposal) Applicant proposes to renovate lower floor of split-level residence in order to install a barber shop.

(b) The legal standard for a "use" variance is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the use variance is granted. Also set forth any efforts you have made to alleviate the hardship other than this application.
(See attached addendum)

V. Area variance: n/a

(a) Area variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.

<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Min. Lot Area _____	_____	_____
Min. Lot Width _____	_____	_____
Reqd. Front Yd. _____	_____	_____
Reqd. Side Yd. _____	_____	_____
Reqd. Rear Yd. _____	_____	_____
Reqd. Street Frontage* _____	_____	_____
Max. Bldg. Hgt. _____	_____	_____
Min. Floor Area* _____	_____	_____
Dev. Coverage* _____ %	_____ %	_____ %
Floor Area Ratio** _____	_____	_____
Parking Area _____	_____	_____

* Residential Districts only

** No-residential districts only

n/a

(b) In making its determination, the ZBA shall take into consideration, among other aspects, the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. Also, whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue other than an area variance; (3) whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created. Describe why you believe the ZBA should grant your application for an area variance:

(You may attach additional paperwork if more space is needed)

VI. Sign Variance: n/a

- (a) Variance requested from New Windsor Zoning Local Law,
Section _____, Table of _____ Regs., Col. _____.

	<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Sign 1	_____	_____	_____
Sign 2	_____	_____	_____
Sign 3	_____	_____	_____
Sign 4	_____	_____	_____

- (b) Describe in detail the sign(s) for which you seek a variance, and set forth your reasons for requiring extra or over size signs.

_____.

- (c) What is total area in square feet of all signs on premises including signs on windows, face of building, and free-standing signs?

_____.

VII. Interpretation. n/a

- (a) Interpretation requested of New Windsor Zoning Local Law,
Section _____, Table of _____ Regs.,
Col. _____.

- (b) Describe in detail the proposal before the Board:

_____.

VIII. Additional comments:

- (a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or upgraded and that the intent and spirit of the New Windsor Zoning is fostered. (Trees, landscaping, curbs, lighting, paving, fencing, screening, sign limitations, utilities, drainage.)

Applicant owns a two-family residence located on the corner of
Cimorelli Drive and Union Avenue in a residential zone. The size
of the parcel is 165x169, including a double-wide driveway for
adequate off-street parking.

_____.

IX. Attachments required:

- x Copy of referral from Bldg./Zoning Insp. or Planning Bd.
 x Copy of tax map showing adjacent properties.

Under the applicable zoning regulation, the applicant herein is deprived of all economic use or benefit from the property in question, which deprivation is established by the following evidence:

Applicant acquired his home in New Windsor by deed dated July 14, 1975. At the time of purchase, the property was designated as a two-family residential dwelling. Applicant submits an affidavit of the prior owner, Vaughan E. Maldfeld, dated May 21, 1993, which states that the property was purchased in October 19, 1964 by Mr. Maldfeld and was always used as a two-family residence. The Affidavit is annexed hereto and made a part of this record. In 1990, Applicant applied for and received a Building Permit for a pool, deck and shed and constructed same in 1991. Recently, Applicant applied for and received Certificates of Occupancy for each of these structures and presents each document as part of this record.

It is the intention of the Applicant to utilize a small portion of the basement area for a barber shop with only one sink and one barber chair. Since the area is zoned R-4, a use variance must be sought by Applicant.

Applicant feels that since his residential dwelling is located on a corner lot, on highly-traveled Union Avenue, that he is deprived of all economic use or benefit from the property in question and as zoned, he cannot get a reasonable return from this property because of the location. Applicant has seen many home occupations such as beauty shops spring up in the neighborhood and he believes with a reasonable degree of certainty that these shops are illegal. But the fact that he wishes to go through the paperwork and apply for a use variance and try to "do the right thing", he may be penalized.

Applicant has presented information attesting to the fact that if the variance is granted there will be no major changes or alterations to the neighborhood since the property has been used as a two-family residence since 1964. There exists at the residence a double driveway which can handle four cars at one time. Applicant feels that this will not be necessary because he proposes to maintain a low level of business. In any event, there will be no parking on the street.

Applicant feels that the granting of the variance will not be detrimental to the health, safety or welfare of the neighborhood or community since there will be basically no changes to the property other than a limited interior alteration to the basement area of the dwelling.

Applicant has stated previously and now reiterates that the proposed variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district since there are other home-related occupations in adjacent dwellings in the immediate area.

The difficulties stated above are self-created but Applicant is trying to alleviate this by seeking a use variance at this time.

The only feasible method which applicant can pursue is the variance process in view of the fact that this is an R-4 residential zoning district and a home-related occupation such as a barber shop is not included in the Bulk Regulations for an R-4 zone.

The Applicant respectfully requests that the Zoning Board of Appeals grant the use variance sought by Applicant.

ZONING BOARD OF APPEALS
TOWN OF NEW WINDSOR

(7-1-20)

cc: AP

-----X
In the Matter of the Application of

PASQUALE MUGNANO,

DECISION DENYING
USE VARIANCE

#93-14.
-----X

WHEREAS, PASQUALE MUGNANO, 2 Cimorelli Drive, New Windsor, New York, 12553, has made application before the Zoning Board of Appeals for a use variance to operate a barber shop, incidental to the residential use at his said premises, to wit, 2 Cimorelli Drive, (corner of Union Avenue), in an R-4 zone; and

WHEREAS, a public hearing was held on the 28th day of June, 1993, before the Zoning Board of Appeals at the Town Hall, New Windsor, New York, and was adjourned to and continued on, the 12th day of July, 1993, the 13th day of September, 1993, the 27th day of September, 1993, and the 25th day of October, 1993; and

WHEREAS, the applicant, PASQUALE MUGNANO, was present at several of the public hearing dates, and he spoke in support of the application, and at one of the public hearings, the said applicant appeared with one Richard Shanahan, who assisted the applicant by helping to explain to the applicant the legal requirements of the Zoning Board of Appeals on a use variance application; and

WHEREAS, there was one spectator present at one of the public hearing dates, to wit, a Mrs. Eva Venice, of 303 Nina Street, New Windsor, New York, who was opposed to the instant variance application. Mrs. Venice indicated that she resides right behind the applicant's property and that she opposed the application because it would permit the applicant to maintain a barber shop/beauty parlor in his residence when other neighbors, such as herself, were not permitted to maintain such a business in their residence. Mrs. Venice also indicated that the existing beauty shop which was around the corner from the applicant's residence existed in that location because it was a pre-existing, non-conforming use of the property. Mrs. Venice further opposed the instant application on the grounds that the passing traffic was very heavy, and proceeded at such a high rate of speed that it was hard to get in and out of the development at the present time; and

WHEREAS, there was another spectator present at one of the public hearing dates, to wit, Mr. Garin Baker, 478 Union Avenue, New Windsor, New York, who had no objection to the instant application. Mr. Baker's property is located only two houses away from the applicant's property and he indicated that he had no objection to the applicant's entrepreneurial use of the property; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following findings of fact in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and published in The Sentinel, also as required by law.

2. The evidence shows that the applicant is seeking permission to operate a barber shop incidental to the residential use of his dwelling in an R-4 zone and such use as a barber shop is not a permitted use in the R-4 zone.

3. The evidence presented by the applicant substantiated the fact that a use variance would be required in order for the applicant to operate a barber shop in his residence in an R-4 zone since such a use as a barber shop is not permitted in the R-4 zone.

4. The evidence presented by the applicant indicated that he desired to open a barber shop in his house, downstairs by the garage. The applicant indicated that he intended to work there himself for approximately 3 to 4 hours a day, for three days a week. He expected to see 7 to 8 customers a day, all by appointment. The applicant indicated that he would have one sink as a shampoo station with a chair and one additional barber chair. He further indicated that he had available off-street parking for up to 5 cars.

5. The evidence presented by applicant further indicated that he recently had surgery to his neck and could not find any other job at the moment so he hoped that he would be able to work for himself in his home, for a few hours each day.

6. The evidence presented by the applicant also indicated that he did not feel any sign was necessary to identify his proposed barber shop.

7. The evidence presented by the applicant further indicated that he did not think he could not get his money out of the property if it was sold only for uses permitted in the R-4 zone. Consequently, the applicant felt that he could not get a reasonable return on his property. The applicant did not offer any expert opinion to substantiate his said conclusions. The applicant offered no appraisal of his property. The applicant did not indicate that he had been offering the property for sale and that he had received any offers to purchase the property for an amount which he considered would not yield a reasonable return to him.

8. The applicant presented additional evidence to show that the neighborhood presently contained uses other than residential uses. The applicant indicated that there was an existing beauty shop across the street and that there was a mechanic and junk yard located within 100 to 200 ft. of his property. However, there was also evidence presented at the public hearing that both of these uses were pre-existing, non-conforming uses. The applicant further indicated that the neighborhood was not entirely conducive to exclusively residential use due to the volume of passing traffic and the noise created thereby.

9. The evidence presented by the applicant also indicated

that he had consulted an attorney who advised him that a variance was not required for a home professional office. It is the finding of this Board that the Table of Use/Bulk Regulations for the suburban residential (R-4) zone in the Town of New Windsor lists certain home professional offices as permitted accessory uses in Column M, Use 10. However, use as a barber shop or beauty parlor is not among the specific permitted accessory uses itemized in M 10. Consequently a use variance is required for the applicant to use his premises in the R-4 zone as a barber shop.

10. The said Table of Use/Bulk Regulations for the suburban residential (R-4) zoning district also includes, among the permitted accessory uses in Column M, "customary home occupations" at item 5. The phrase "home occupation" is defined at Section 48-37 of the Zoning Local Law of the Town of New Windsor, New York. However, it is the finding of this Board that the Town Board did not intend that the said definition of home occupation would be so expansive so as to include a barber shop or beauty parlor therein. Customary home occupations are permitted accessory uses in all residential zones, that is the R-1, R-2, R-3, R-4 and R-5 zoning districts in the Town of New Windsor. However, there is no mention in any of the residential zones of use as a barber shop or beauty parlor. It appears that barber shops and beauty parlors are uses permitted by right only in the neighborhood commercial (NC) and designed shopping (C) zoning districts and are included in such zones in the Table of Use/Bulk Regulations, Column A as "personal service stores, such as but not limited to, barber shops, beauty parlors and tailor shops" at numbers 7 and 2, respectively in such zoning districts. The said uses require site plan approval from the Planning Board. It is the further finding of this Board that since the Town Board in ^{en}acting the Zoning Local Law of the Town of New Windsor, has specifically permitted barber shops and beauty parlors as uses by right in the NC and C zoning districts and has included them under a designation as "personal service stores", the Town Board clearly differentiated such uses from what it intended to be included under "customary home occupations". Consequently it is the finding of this Board that use as a barber shop is not to be interpreted as a "customary home occupation". As a result, the applicant's proposed use of his property as a barber shop in an R-4 zone can be allowed only if a use variance is granted by the Zoning Board of Appeals.

11. The evidence presented by the applicant further indicated that the subject premises are presently used as a two-family dwelling by virtue of a pre-existing, non-conforming use. A two-family dwelling is not a permitted use in the R-4 zoning district. Consequently, absent any evidence to the contrary, it is the finding of this Board that the applicant is able to realize a return on his premises which may well exceed the return the same would generate if it were limited to the one-family dwellings permitted by right in the R-4 zoning district. In addition, there was evidence presented to the Board that the applicant has made a number of improvements to the two-family dwelling since he acquired the same in 1975, to wit, the addition of a pool, deck and other amenities. It is the further finding of this Board that the applicant's additions to

the property over the years do not represent the actions of the property owner who was not realizing a reasonable return from the property over the years.

12. The applicant has filed the required short environmental assessment form in connection with his application.

13. The Zoning Board of Appeals of the Town of New Windsor has not declared itself as the lead agency in regard to the review of the applicant's request for a use variance and the Zoning Board of Appeals of the Town of New Windsor has not made a determination of significance under SEQRA for the requested use variance since it is the finding of this Board that the applicant has not submitted a complete application to this Board in that the applicant has failed to present some of the requisite evidence that this Board must consider upon any application for a use variance.

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law in this matter:

1. Under the applicable R-4 zoning regulations, and considering each and every permitted use under the zoning regulations in the R-4 district, where the property is located, the applicant can realize a reasonable return from the property in question. The applicant submitted no competent financial evidence to indicate that there was a substantial lack of return. The applicant only offered his own opinion and did not substantiate that opinion with any competent financial evidence whatsoever. The applicant did not indicate that he had any particular expertise in real estate investment and/or real estate appraisal.

2. The hardship relating to the property in question is not unique. The applicant offered almost no proof on this issue but apparently indicated that the property was not different from others in the neighborhood.

3. The requested use variance, if granted, will not alter the essential character of the neighborhood which, at the present time, is devoted to mixed uses including an existing beauty shop and mechanic/junk yard (although both said uses are pre-existing, non-conforming) as well as the predominately residential use thereof.

4. The alleged hardship has been self-created. The applicant offered no proof whatsoever on this issue. However, it appears that the applicant acquired a two-family dwelling which is a pre-existing and a non-conforming use in an R-4 zoning district which permits only one-family dwellings, has resided there for approximately 18 years, has substantially improved the said premises, and now seeks this variance only to improve his return thereon. There was no evidence offered of any unnecessary hardship generated by the property itself or by conditions in the R-4 zoning district which would cause this Board to make a finding that the hardship was other than self-created.

5. It is the finding of this Board that the applicant has

not demonstrated that the applicable zoning regulations and restrictions have caused unnecessary hardship.

6. It is the further finding of this Board, since the applicant has not shown that the applicable zoning regulations and restrictions have caused unnecessary hardship, the applicant is not entitled to a use variance authorizing the subject parcel to be used as a barber shop in the R-4 zoning district, a use which is not allowed as a right by the terms of the Zoning Local Law of the Town of New Windsor, New York in the R-4 zoning district.

7. It is the further finding of this Board that the denial of the requested use variance is required in order to preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

8. The interests of justice would be served by denying the requested use variance.

NOW, THEREFORE, BE IT,

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor DENY a use variance to permit the operation of a barber shop incident to the residential use in an R-4 zone, as sought by the applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER,

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and applicant.

Dated: December 13, 1993.


Chairman



1763

TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

(914)563-4630

November 30, 1993
FAX:914-563-4693

Mr. Pasquale Mugnano
2 Cimorelli Drive
New Windsor, N. Y. 12553

RE: APPLICATION FOR USE VARIANCE
#93-14 - BARBER SHOP IN RESIDENCE

Dear Mr. Mugnano:

This is to confirm that the Zoning Board of Appeals at its October 25, 1993 meeting voted to DENY your application for a use variance for a barber shop in your residence. I have enclosed herewith a copy of the minutes of the October 25, 1993 meeting.

Formal decision will be drafted at a later date and acted upon by the Board. You will be receiving a copy by return mail.

Very truly yours,

A handwritten signature in cursive script, reading "Patricia A. Barnhart".

PATRICIA A. BARNHART
Secretary

/pab
Enclosure

cc: Michael Babcock, B. I.

PUBLIC HEARING

MUGNANO, PASQUALE

MR. NUGENT: This is continued request for use variance for barber shop in R-4 zone. This is his third, I believe his third time that he has been a no show. I feel that we've given him adequate notice and I think at this time, we should close the public hearing.

MR. LUCIA: First you want to ask if there's anybody in the public interested in the application?

MR. NUGENT: Is there anyone in the public interested in this application? No one is here.

MR. LUCIA: This is actually I think the fifth meeting on this. We met the first public hearing was June 28 adjourned to July 12 adjourned to September 13 adjourned to September 27 adjourned to tonight. Pat, you just want to mention you called Mrs. Mugnano today?

MS. BARNHART: No, she called me because she had been informed by me Mrs. Mugnano, I called her after the last meeting and I told her it was postponed till tonight. She remembered that and she called me this morning and she said my husband told me to call you to tell you that he will not be there. I said thank you very much for calling and that was it.

MR. TANNER: Would you like a motion to close the public hearing?

MR. NUGENT: Yes.

MR. TANNER: So moved.

MR. TORLEY: Second it.

ROLL CALL

MR. HOGAN	AYE
MR. LANGANKE	AYE
MR. TORLEY	AYE

October 25, 1993

46

MR. TANNER AYE
MR. NUGENT AYE

MR. LUCIA: It appears that we really have received from Mr. Mugnano none of the proof we need in order to grant his requested use variance. We, as you know, had trouble communicating with him. I think we gave him more than enough opportunity to communicate with an attorney which I gather he did but he's still yet to provide this board with any evidence we need in order to pass on a use variance application.

MR. TANNER: Make a motion that we grant the variance.

MR. TORLEY: Second it.

ROLL CALL

MR. HOGAN NO
MR. LANGANKE NO
MR. TORLEY NO
MR. TANNER NO
MR. NUGENT NO

9/93

PUBLIC HEARING:

~~MUGNANO, PASQUALE~~

MS. BARNHART: I called him to remind him that the public hearing would be continued this evening and he said that he contacted an attorney he didn't say who it was and he said that this attorney told him that he didn't need a use variance to have a barber shop in his house. That was it. And that was the end of it so I said okay.

MR. LUCIA: I appreciate that but as far as the board is concerned, the public hearing has been adjourned I guess twice and it's now scheduled for this evening and we have to treat it as a no show so if he doesn't proceed with an application, we have to dismiss it.

MR. TORLEY: Do we take a vote denying the variance request? If we don't do anything he can come back.

MR. LANGANKE: I thank it should be resolved.

MS. BARNHART: It should be, this was supposed to be brought up tonight.

MR. LUCIA: I would ask if there's anybody here to speak on the application, I would still call it and if nobody shows, close the public hearing. And if anyone wants to present a motion, they are certainly welcome to.

MR. HOGAN: Who is his attorney, did he say?

MS. BARNHART: No, he didn't mention that.

MR. HOGAN: Does he intend to put a barber shop in there?

MS. BARNHART: He didn't tell me that. He just said that he was told he didn't need the variance.

MR. NUGENT: I'll read the request. Request for use variance for barber shop in R-4 zone. Continued from June 28th. Public hearing was postponed. Is anyone

now in the audience interested in the public hearing? If none, I'll close the public hearing and open up to the board for a final questioning and entertain a motion if so desired.

MR. LUCIA: There were as you may recall from previous meetings specific requirements that Mr. Mugnano never did submit evidence on, specifically the unnecessary hardship issue and the 3 requirements for that. I think the board has very little evidence on the record of the specific requirements for the use variance in this case.

MR. TANNER: I also think we have given him every opportunity to present evidence to this board and he hasn't availed himself of that. Since he isn't here tonight, I make a motion we deny the variance.

MR. HOGAN: Before you move, could I speak? I just am remembering Mr. Mugnano, he had a difficulty understanding us and I'm not sure that we shouldn't go the additional one yard and maybe somehow ask him or write to him and say that we're going to close the public hearing and vote on his motion for the variance, should we not hear back from him. Maybe he's misunderstood his lawyer.

MR. TANNER: Somewhere along the line, we have to call a halt to this, and this is also the second time this has come. It isn't the first time it's come before us. If it was the first time, I'd agree with you Dan but he came before the board. We went through this once before. Then he came back a second time.

MR. BABCOCK: Before the first time that he came into this board, he was asked by this board if the sheds and decks and pools were legal on his property. And the board said that we thought, the board thought at that time that he should square those things away before he asks for his variance. So in all fairness to the application, I know it's dated 1990, he really never got to ask his question until the last meeting although we knew what he wanted to do. He was told that he couldn't proceed until and it took him a long time to get all this straightened out, C.O.s and the pools.

MS. BARNHART: He also had a question about the two family.

MR. BABCOCK: So basically this is the first time he came here to ask for this barber shop, although we knew he was going to come here.

MR. HOGAN: I am not sure what the procedure would be but I think whether we vote tonight to deny the variance or we give him some sort of written notice that we intend to vote on the variance.

MR. LUCIA: Only procedural safeguard is if we do want to continue the time, I would adjourn the public hearing because we still need to have the public hearing open for him to offer evidence for anyone who wants to.

MR. NUGENT: I already closed it.

MR. LUCIA: You can entertain a motion to reverse that if you want to give it more time.

MR. TORLEY: My understanding was if once we closed the public hearing, the applicant can still present information to us. We can ask, we've asked him questions in the past.

MR. LUCIA: You can do that. I think if you have any objectant, you really need to hear their questions to the applicant's proposal. At that point, if they choose to, it doesn't come up very often but technically you shouldn't close the public hearing until everybody has been heard on the issue. We work in a somewhat looser format. Anytime we have had anybody that wanted to respond after we close the public hearing, we've given them the chance.

MR. TORLEY: I would then suggest if Dan feels uncomfortable that we let the public hearing stay closed and send him a letter saying that he failed to show up last time, we closed the public hearing. I'll leave it to you to phrase the words properly but say you have one more chance to say something before we

vote.

MR. LUCIA: If you are going to let him speak, it needs to be a public hearing. So we need to reverse the last motion if that is going to be resolved.

MR. LANGANKE: We've talked to him several times, Dan, do you feel that there's hardship in his case that warrants granting a variance?

MR. HOGAN: I haven't heard the evidence so I don't know. The only point I'm making is that we all witnessed he had a difficulty communicating with us. I'm not sure that difficulty is just because we talk funny or something but it may be a miscommunication between him and his attorney. I'd like to put him on notice that we intend to close the public hearing and intend to vote to either approve or deny the variance, at whatever other next meeting or date is, the onus is back on him if he is misunderstood we may suggest that he copies his attorney with the correspondence.

MR. TORLEY: Should we become somewhat hypothetical, shouldn't we vote to object the application for a variance?

MS. BARHNART: Just vote on it.

MR. TORLEY: Then he has the right to request six months before he can start again on the same variance.

MR. LUCIA: Under the new law he can come in tomorrow if he wants to if. In this case he presented no evidence, there's no question he's got to come in with something different next time.

MR. TORLEY: He can start the process again tomorrow, should he wish.

MR. LUCIA: Yes, he probably would take a full shot on fees and application costs and everything.

MR. NUGENT: Did he pay all the fees?

MR. LUCIA: Yes.

MR. TORLEY: And the applicant would be regardless of the outcome of the formal decision sent to the applicant.

MR. LUCIA: Yes, it is.

MR. NUGENT: He made a motion already.

MR. TANNER: Technically, he wasn't because I phrased it wrong.

MR. NUGENT: We need to go back another step if you want to reverse my closing of the public hearing, we need a motion to that effect. If not, then we need a motion granting the variance.

MR. TANNER: Dan's points are well taken, I don't necessarily agree with you completely but I do think they are well taken, we have put a lot of time into this at this point.

MR. HOGAN: Additional two or three weeks.

MR. TANNER: Give him another time.

MR. NUGENT: In regards to Dan's, and I agree he does have a problem understanding or comprehending what we're asking him. But this is not the first time in my tenure on this board that he stood before us, not necessarily for a barber shop. He came a few years back for something else. I don't remember what it was and he pulled the same thing. I think he tends to play a little bit more stupid than he is. I don't know how to put that in better words.

MR. TORLEY: At the last hearing, I don't recall whether it was at the public hearing or one of the preliminary meetings, we adjourned it to let him go get someone to help him with his English.

MS. BARHNART: Richard Shanahan was here and he more or less was here so he could tell him what was going on.

MR. NUGENT: He agreed with us that what we had asked

for was right.

MR. TORLEY: It's time to draw this to a close.

MR. NUGENT: I agree.

MR. LANGANKE: I also.

MR. NUGENT: He doesn't even have the courtesy to say he's not going to be here.

MS. BARHNART: I called him to remind him to be here and he just you know kind of gave me the impression that he wasn't going to come.

MR. HOGAN: My position is still the same, I think it ought to be left open and to leave it open for a couple more weeks while we notify him. It let's it clear in his mind and our mind that we did everything we could to assist in this but the rest of the board is not obviously in agreement. Make a motion that we reopen the public hearing and part of that motion I'd like to say that we contact him in writing.

MR. NUGENT: Motion dies for lack of a second.

MR. TANNER: Make a motion we grant the variance.

MR. TORLEY: Second it.

(Whereupon, Mr. Pasquale Mugnano enters the room.)

MR. MUGNANO: I talked to the lawyer. For home occupation, I don't think I got to go through there. I got to go to the Planning Board.

MR. LUCIA: Why don't you sit down, we'll get to that. What we're laughing about, we just spent a long time discussing why you weren't here and what we're going to do about it and the board was just voting on your variance application, since you weren't here and we just started to poll the board members. Can we withdraw the motion that is now on the floor?

MR. TANNER: I'll withdraw that motion.

MR. LUCIA: We have to reopen the public hearing also.

MR. HOGAN: I'll make my motion again.

MR. LUCIA: Just deleting the part writing to Mr Mugnano.

MR. HOGAN: We can delete the portion writing to Mr. Mugnano we can reopen the public hearing.

MR. TANNER: Second it.

ROLL CALL

MR. TANNER	AYE
MR. LANGANKE	AYE
MR. TORLEY	AYE
MR. NUGENT	AYE
MR. HOGAN	AYE

MR. LUCIA: Why don't you take up the point you just started on. You said you spoke to an attorney.

MR. MUGNANO: Yes and he talked to supervisor, I think he called somebody in the office and he said to me by the book that is home occupation, I got to go through the Planning Board, not Zoning Board.

MR. LUCIA: You mentioned before home professional office, is that what you were talking about?

MR. MUGNANO: I told him what I want, I give the paper you guys give to me and I think he call you, too, he told me he called you, too.

MR. LUCIA: I'm looking at the table of uses slash bulk regulations for the suburban residential, that is the R-4 zone your property is located and in column M as in Mary, number ten, it lists home professional office or studio of architect, artist, chiropractor, dentist, insurance broker, lawyer, musician, optomotrist, teacher, surgeon, physician, real estate broker and veterinarian subject to Section 21 F, that list does

not include a barber so I think whoever may have given you the advice that this was a home professional occupation, wasn't accurate for this particular zoning district where your property is located. That is why you are here for a use variance. If you had come in before, I think we would have known it was a home professional office based on your application but you're not any of those particular items.

MR. MUGNANO: They send me to see lawyer said one thing.

MR. TORLEY: Who is the lawyer?

MR. MUGNANO: I can't pronounce the name, on 207 where they do the MRI, I forget.

MR. LUCIA: Drake, Sommers, Loeb, Tarshis & Catania, One Corwin Court, do you know who you spoke to there?

MR. MUGNANO: Mr., he said the lawyer talked to you, he said I got to do the Planning Board. He said he don't need me look like it's a joke three years I spent a lot of money you know.

MR. LUCIA: No one called me from that office about your application anyway.

MR. HOGAN: Did you see Mr. Loeb?

MR. MUGNANO: Yeah, okay.

MR. LUCIA: I've had a number of conversations with Mr. Loeb but not about your application.

MR. MUGNANO: He said he spoke to you and the Town Supervisor, he said you don't need to go through there, it's home occupation. He look in the book, I don't know what's in the book, if I can read the book and also I want to point one thing to the Zoning Board, if you call my house, it's residential okay every two minutes police car go by with the siren, ambulance, truck, it's a noisy area you know that's got to be a consideration.

MR. LUCIA: That certainly is something.

MR. MUGNANO: Across the street the beauty shop and I have a junk yard 200 feet away from me and I want to just do something you know I want to know what I got to do.

MR. LUCIA: All the things you're saying are relevant to your application and you're certainly entitled to tell the board why it is you think they have a bearing on your being able to prove that you can't get your value out of the property.

MR. MUGNANO: No, I'm not going through this because I don't understand this. We discussed this last time. That is why you said I needed advice and I went for professional advice and you know I've got, he can't charge me 3, \$400 he said I don't want to take your money. That is something you don't need a lawyer.

MR. HOGAN: Did you see the are lawyer on your own or did you have anybody with you at the time?

MR. MUGNANO: No, I went on my own. He called my house, he called my house, my wife speak good English, you know.

MR. HOGAN: So your wife spoke to him also?

MR. MUGNANO: Yes and he said he called her and talked to Mike's office and he told me he talk to your office and he talk to supervisor's office.

MR. BABCOCK: He could have talked to my office you were dealing with Frank on this.

MR. MUGNANO: I don't know becuae I don't tell him to call anybody. He just take my paper and that is it.

MR. LUCIA: If you saw Mr. Loeb, I speak with him fairly regularly on various matters but we have never ever discussed your application.

MR. NUGENT: In consideration to the applicant, and I know there's nobody on this board that wants to do this

but we should postpone the application until you have an opportunity to talk to one of the, either Mr. Loeb or one of his partners.

MR. MUGNANO: I spoke to Mr. Loeb.

MR. NUGENT: To find out exactly what transpired and then we can take it from there but everybody here is kind of in the dark.

MR. LUCIA: That is fine with me.

MR. TANNER: I agree with that.

MR. LUCIA: What the board has to do is adjourn the public hearing to a date certain.

MR. LANGANKE: I think we should get a letter.

MR. MUGNANO: What's the story, I can't go and speak with the Planning Board.

MR. HOGAN: You can but they are going to send you back here.

MR. TORLEY: Because your attorney was incorrect you do need a variance for the barber shop.

MR. BABCOCK: There's a misunderstanding. Mr. Loeb is familiar that, he's very familiar.

MR. LUCIA: I think somebody misunderstood something along the way and rather than hold it against you tonight, what I think the board has in mind is putting off your public hearing once again whether it's for two weeks or a month or whatever I'll call Mr. Loeb and I would suggest you call Mr. Loeb and among the 3 of us will decide what is going to happen at the next public hearing but as far as this board is concerned, we need certain items approved. Mr. Loeb knows them and can explain them.

MR. MUGNANO: He told me he said you don't got to do this because this is a home occupation. Somebody puts a barber shop, the vet can shave a dog and I can't

shave one of you guys, come on.

MR. LUCIA: This board did not write the zoning ordinance. You need to take that to the Town Board, they are the only ones.

MR. MUGNANO: I'm going to go to the Town Board, state, federal, I'll go anyplace. I start this cost me almost \$1,000 and I'm going to keep going. I don't care if it is going to cost me \$20,000.

MR. LUCIA: Don't spend your money where it is not doing any good. We can't change the law, as long as it says what I read, we can't give you a barber shop unless you prove you are entitled to a use variance. If you want to get the law changed, you have to go to the Town Board.

MR. MUGNANO: You know how many illegal beauty shops you have on Nina Street?

MS. BARNHART: You don't want an illegal one.

MR. MUGNANO: If I want to do something illegal, I can do something else.

MR. HOGAN: What the board is trying to do is be extremely fair with you and if we let our attorney speak with your attorney, perhaps we can clarify what took place. There's definitely been a misunderstanding.

MR. LANGANKE: I think there should be a letter involved here also from his lawyer to Mr. Mugnano.

MR. TANNER: And to us.

MR. HOGAN: We're saying we're going to delay and hold over your public hearing.

MR. MUGNANO: Do a little bit of investigation.

MR. NUGENT: You have already paid your fees so you are entitled to a full shot, you have already paid your fee.

MR. TORLEY: We're going to adjourn this until the next session.

MR. MUGNANO: I don't know if I can come the next time, I work late. I work until 8 o'clock on Monday.

MR. LUCIA: Next scheduled meeting would be September 27 and the one after that would be October 25.

MR. TORLEY: Let's do the September 27, we'll not start the hearing, we'll make sure that we wait.

MR. LUCIA: I'll call Mr. Loeb and I suggest you call him, what the board would like is a letter from him to this board or send it to me explaining exactly what his position is with regard to your barber shop application.

MR. NUGENT: Why he feels you don't need to be here.

MR. MUGNANO: I don't know.

MR. TORLEY: I agree with you that the law seems strange to allow vet shops but not barber shops but as your attorney pointed out who can change the law.

MR. MUGNANO: Who can change the law?

MR. LUCIA: Town Board.

MR. MUGNANO: Anybody can speak what I feel.

MR. TORLEY: Town Board meetings there's a time for public comment, feel free to get up and state your case right then, they'll listen to you.

MR. MUGNANO: No problem, okay, thank you for your time.

MR. LUCIA: We can't deal with that. We can only deal with the application you now have before us which is a use variance and if the board adopts a motion to adjourn to September 27, you need to come back two weeks from tonight, September 27. In the meantime,

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I'll talk to Mr. Loeb. I suggest you talk to him, okay?

MR. TORLEY: But I'll make a motion to adjourn the hearing until September 27 and we'll not start the hearing until you arrive or give us notice.

MR. MUGNANO: Okay.

MR. NUGENT: If you are not coming, please call.

MR. HOGAN: I'm not sure you can word it that way, we'll be here all night.

MR. TORLEY: I make a motion we adjourn this public hearing until September 27 at 8:30.

MR. HOGAN: Second it.

ROLL CALL

MR. TANNER	AYE
MR. LANGANKE	AYE
MR. TORLEY	AYE
MR. NUGENT	AYE
MR. HOGAN	AYE

PUBLIC HEARINGS:

MUGNANO, PASQUALE

MR. NUGENT: I think we should postpone it until the applicant calls us.

MR. LUCIA: We keep the public hearing open, the time required to make a decision doesn't get triggered until the public hearing is closed.

MR. TANNER: Just keep it open as long as we don't forget about it.

MR. LUCIA: I prefer to adjourn to a date certain so it comes up on the agenda.

MR. HOGAN: What were his comments to us?

MR. LUCIA: He talked to an attorney who said you don't need a variance.

MR. NUGENT: We asked him to give us written proof as to what his attorney told us.

MR. LUCIA: I spoke with Jim's secreary and he was in in July and it was left if he wanted Jim to represent him, he was to call back. He never called back to Jim is not representing Mr. Mugnano. I have no idea where his statement about I don't need a variance came from.

MR. BABCOCK: And I think there's a little bit of misunderstanding. When he's asking about a home professional office and if he asks Mr. Loeb do I need a variance to have a home professional office, Mr. Loeb's answer could very well have been no, you don't but I didn't know he what he told him.

MRS. BARNHART: He told him that the board was talking about or the Town Board was talking about changing some of the home professional offices and it might have been in the works but they've not done it yet and he came up with the opinion that they did it already and all you have to do is go to the Planning Board. That is what he said so he took it wrong.

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MR. TANNER: Do you want to adjourn until next meeting?

MR. LUCIA: October 25.

MR. LANGANKE: Make a motion we adjourn.

MR. HOGAN: Could this be something that continues forever here?

MR. LUCIA: We really have not had any input from the applicant on the use variance criteria so I think if we close it, it's forgone, if he doesn't submit any applicable proof.

MR. TANNER: He has a health problem. We have dragged it out this long, let's drag it out.

MR. LANGANKE: Second it.

ROLL CALL

MR. TANNER	AYE
MR. HOGAN	AYE
MR. LANGANKE	AYE
MR. TORLEY	AYE
MR. NUGENT	AYE

Date 7/1/93, 19.....

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

TO Frances Roth, 172 Moores Hill Rd DR.
New Windsor, NY 12553

DATE			CLAIMED	ALLOWED
28/93		Zoning Board	75 00	
		Misc - 3		
		Metromedia - 1 - 4.50.		
		KWG - 11 - 49.50.		
		Harnett - 9 - 40.50.		
		Mugnano - 8 13 - 58.50 - 21.00		
		Maroulis - 6 - 27.00.		
		Berry - 4 - 18.00.		
		4888	216 00	
			291 00	

MUGNANO, PASQUALE

MR. TORLEY: Request for use variance to have a barber shop incidental to residential use at 2 Cimorelli Drive (corner of Union Avenue) in an R-4 zone.

Mr. Pasquale Mugnano appeared before the board for this proposal.

MR. TORLEY: Tell us what you wish to do.

MR. MUGNANO: I want to do a barber shop downstairs in the garage part of the house.

MR. TORLEY: Okay

MR. LUCIA: This goes over some of the matters you discussed during preliminary, could you tell the board how large a barber shop this is? Is it just one chair?

MR. MUGNANO: One chair and one sink, got to be 2 chairs because the sink you know one shampoo station and one chair.

MR. LUCIA: So 2 chairs, one sink is that right?

MR. MUGNANO: Yeah, usually but can be one.

MR. LUCIA: I understand you're considering a range of possibilities but the board wants a feel for exactly what it is.

MR. MUGNANO: One operator.

MR. LUCIA: That would be you personally?

MR. MUGNANO: Yes.

MR. LUCIA: And do you have any projection on number of days during the week you'd be open, number of hours?

MR. MUGNANO: Couple hour day, three or four hour day all by appointment.

MR. LUCIA: How about parking?

MR. MUGNANO: I got it for 3, 4 cars, 5 cars.

MR. LUCIA: This is on your property?

MR. MUGNANO: On my property.

MR. LUCIA: Do you feel that under the applicable zoning regulations your property is now zoned R4 so a barber shop would not be permitted, do you feel that under those zoning regulations, you're deprived of all economic use or benefit from the property?

MR. MUGNANO: What it means, I can't--

MR. LUCIA: That basically means you can't get your money out of the property, you paid, I don't know some amount of the money for it when you bought it in 1975, was it?

MR. MUGNANO: Yes.

MR. LUCIA: Do you feel that because it is zoned R4 you obviously can only sell it for R4 uses, you can't get your money out of the property, you don't get a fair return?

MR. MUGNANO: I don't know what I am going to, I don't know why I have to give it.

MR. LUCIA: In enacting 267B of the Town Law says it's one of the things this board has to find before you can have a use variance. You may remember when you were here for the preliminary meetings, I think you were here three times before I told you there are 4 specific things you have to speak to. The first one is whether or not you're deprived of all economic use or benefit from the property that is basically dollars and cents argument. You need to tell the board you just can't get your money out of it, if you had to sell that property today only for R4 residential uses.

MR. MUGNANO: I don't think so, no.

MR. LUCIA: Is this hardship unique, is it different than the properties nearby, your neighbors in the neighborhood have the same problem you do getting their money out of the property?

MR. MUGNANO: There's two questions and I can't understand.

MR. LUCIA: One of the requirements this board has to give you a use variance is we must find your property is unique, it is different from everybody else in the neighborhood, what makes your property different from the property next door?

MR. MUGNANO: I don't think it makes any difference that is what I think.

MR. LUCIA: So the same.

MR. LANGANKE: If I may interrupt here, I'm not getting answers to these questions to my satisfaction that he is asking which will allow me to make a decision. It's going over my head, I'm missing it.

MR. TORLEY: For a use variance, the State Legislature and the courts have given us specific guidelines of what we have to have answered in order to grant such a variance. And they are really very tight. As our attorney said, you have to show that you cannot get a reasonable return, can't get your money back on the property as it is now zoned for anything you can do in in a zone you can get your money back, that is the first one.

MR. MUGNANO: What you mean I can't get my money back?

MR. TORLEY: You couldn't sell the property as a residential use and get any kind of return.

MR. MUGNANO: I think I can sell, yes.

MR. LUCIA: It's not that you can't, you paid a certain amount of money for this property. You bought it in 1975. You know that in general property values in this Town have increased since 1975, you can probably put

some percentage on it per year for what most everybody's property has gone up since 1975. Now, if you are going to claim economic hardship, you need to say that I can't get that kind of return, everybody else's property has gone up 3 times in value or whatever it is since 1975, mine hasn't, I can't get that kind of return my neighbor can but I can't, that would be the type of argument this board needs to hear order to find that you suffer economic hardship by virtue of the zoning.

MR. MUGNANO: I don't know, I can't understand the question well.

MR. LUCIA: I understand it's difficult, that is why we suggested at one of those preliminaries you want to hire a real estate appraiser or somebody to come in and speak to these issues because the courts have established very definite things this board has to find in order to grant you a use variance and if you don't speak to and establish to this board's satisfaction all 4 of these things, if you fail in any one of them, the board can't grant you a use variance.

MR. MUGNANO: Say again.

MR. LUCIA: The other possibility I know this is something the board wants to entertain is if the board would consider adjoining your application, you might go out and hire, whether it's a lawyer or real estate appraiser or someone who can present this for. You have because as Mr. Langanke mentioned the answers we've heard so far are not the type of proof this board typically hears on use variances or at least those that have been granted so I know you have been here three times before and I know we've tried to explain this to you each time and the board wants to hear you but I'm wondering for your own benefit if maybe this is the sort of thing you want to get someone to present most effectively for you.

MR. TORLEY: It's up to you. You can continue as you are now with what we've been presented with so far or you could request and I wouldn't speak for anybody else, you can request adjournment of this public

hearing so you can get some professional advice. It's entirely up to you.

MR. MUGNANO: I can go get somebody with me, I'll be back in ten minutes.

MR. LUCIA: If you can do it that quckly?

MR. MUGNANO: By the time you go, you go through anybody, I want somebody to explain to me.

MR. LUCIA: If the board is agreeable to that.

MR. TANNER: I'm agreeable. Do you want a motion? Make a motion we adjourn till later this evening.

MR. LUCIA: Same meeting, you're tabling.

MR. HOGAN: If we could, we have some public here, do we have want to let the public speak?

MR. TORLEY: If there's anyone here who wishes to speak on this now, we're going to table it for a few minutes but if you are in a hurry to go someplace else, please speak now if you wish.

MRS. VENICE: 303 Nina Street, which is right behind this gentleman's home. Is this going to open up a Pandora's box? Many years ago when I moved into my house, I'm a hairdresser by trade and I asked if I can finish my basement off and put a beauty shop in there. At that time, I said there's a beauty shop right around the corner, Eda Mc Phillips has a shop. I was told that that was a pre-existing situation and Union Avenue is zoned commercial which was fine. My development at that time was zoned residential which it still is. And I just think that it's bad enough coming in and out of the development when you can't see people zooming up and down it, Union, it looks like Indianapolis 500. We all have a problem as far as trying to sell our homes, real estate is at the bottom, it's not hopefully some day it will get better, my development we have a million houses for sale. Other people will want to do the same thing. Let's put a business so we can generate some more revenue to be able to taxes or do

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whatever else we want to.

MR. TORLEY: Then you would be opposed to granting this variance?

MRS. VENICE: I think so. If it is not good for one, then why should a couple years down the road be good for somebody else?

MR. TORLEY: Anyone else who wishes to speak now as opposed to later? Otherwise, we'll take a motion to table I believe.

MR. TANNER: So moved.

MR. HOGAN: Second it.

ROLL CALL

MR. TORLEY	AYE
MR. HOGAN	AYE
MR. TANNER	AYE
MR. LANGANKE	AYE

MR. LUCIA: If you have problems getting somebody come back anyway and talk to us.

MUGNANO - CONTINUED

MR. TORLEY: Reopening the public hearing in this matter. Sir, do you wish to have someone else help you?

Mr. Pasquale Mugnano reappeared before the board along with Mr. Richard Shanahan.

MR. LUCIA: There are four specific things that Mr. Mugnano needs to establish to this board in order for this board to make findings sufficient to give him the area variance. The first use variance. The first one is under the applicable zoning regulations, the applicant is deprived of all economic use or benefit from the property in question. Basically what that means is he cannot get a fair return on property if he were to sell it today subject to the uses permitted in the R-4 zone and he kind of waffled on that answer. The board felt that we needed a little more exact.

MR. MUGNANO: No.

MR. LUCIA: Do you feel you cannot get a reasonable return?

MR. MUGNANO: No.

MR. LUCIA: That needs to be established by competent financial evidence whether you want to get a real estate appraiser unless you've offered your property for sale recently and haven't gotten any offers or gotten offers that are too low we really need dollars and cents proof on it. The board really needs more than just your say so on that. Can you tell us something that may have happened which would indicate to you that you can't get a fair return on the property?

MR. SHANAHAN: Have you tried to sell the property or had an appraisal where someone has offered you a very low figure on the property?

MR. MUGNANO: No.

MR. TORLEY: Use variance has been set by the legislature to have a very high hurdle, you have to establish those 4 items and every one of them has to be established. If you don't make one of them, you don't get the variance so the first question asked was about the financial impact you have to show that you can't get a reasonable return for anything that you are able to do in that zone for that piece of property and that has to be more than I can't. If you want to you can continue at this point or if you wish to get an appraiser or whatever we can adjourn, you've got to get an all 4 and you're in trouble on number one.

MR. SHANAHAN: How does Mr. Mugnano stand on the other 3 points?

MR. LUCIA: Let's go through them. The second is the alleged hardship related to the property is unique and does not apply to substantial part of the district or neighborhood. In other words, he needs to establish why his property is different than the neighboring properties, why his problem getting this economic return on the property doesn't equally apply to everybody else around him. It's not a neighborhood problem he has some unique situation that effects his property.

MR. SHANAHAN: That would also be termed by an appraisal fair market value.

MR. LUCIA: Yes, you'd need the appraiser to say his property suffers and the neighbor doesn't suffer for X reasons, be it location, size, traffic, whatever he has. The third one is requested variance if granted will not alter the essential character of the neighborhood. I think he indicated when he came in for preliminary there were some other beauty shops or commercial shops.

MR. SHANAHAN: There's beauty shop across the street.

MR. LUCIA: That is what he needs to establish on that that he isn't the only non-residential use in the area. That one he may be able to handle himself.

MR. SHANAHAN: That would be indicated in the pictures that he provided.

MR. LUCIA: Last one is that the alleged hardship has not been self-created. That is a tough one, honestly, when you're seeking a proposed use but if you have established enough on the prior three, these two kind of blend together a little bit. If he's established enough for the board on the prior three, he may be able to show that the property suffers from the hardship and he's doing what he can to get out from under it so obviously it's self-created where he is looking for proposed use but he can get out from under it if he can establish that the hardship is created by the property.

MR. TORLEY: We've not heard all the evidence so I am not maybe making any prejudicial statement here but I want to be honest with you, it's a tough road.

MR. SHANAHAN: That is understandable.

MR. HOGAN: If we're going to speak to this, there's Mr. Mugnano, Mr. Jones, who was I think before us last time. Prior to that we had Angelo Perino and I don't know this for a fact but I hear all of them are on their way back to us, all for the same use and I also understand in talking to members of the Town Board and the Supervisor in Town that there's some consideration going on in terms of changing the code to include that as if you will a permitted home occupation beauty salon barber shop so I'm just saying this to us as a board in front of public that what we do tonight will set perhaps a precedent for the next two and we can't do one without doing the other.

MR. TORLEY: Theoretically, the board sets no precedent. Each case is individual and it would be real helpful if the board did clean up the home office use because as it's written now, it can be very confusing.

MR. TANNER: There's nothing we can do about that, we have to rule on what we have before us.

MR. LUCIA: The relevance of it is it is relevant in

this sense that if the Zoning Board gets a lot of similar applications for use variances, it's not an argument to grant the use variance, it basically goes to show the zoning may be inappropriate and it should be addressed to the Town Board. There should be relatively, if the use variance is granted and only in cases that obviously dramatically show that there's a hardship and that is the only way but if there's a lot of them coming along it may be evidenced that the zoning is inappropriate.

MR. TORLEY: That may be your better road to get the Town Board to adjust the law rather than trying to get a use variance because the legislature has made use variances very very tough.

MR. TANNER: Getting back to where we were, point number one is still a hurdle that he has to get over at this point. We need some numbers somewhere.

MR. LUCIA: The board isn't judging your application but I think what we have been trying to tell you through three preliminary meetings you really need good hard dollars and cents financial evidence, be it from an appraiser, real estate broker or if you want to talk to an attorney or someone who can present this in terms of what the board needs.

MR. TANNER: Very difficult to do without professional help, it really is.

MR. HOGAN: If you are serious about wanting to do this as a home occupation, and you obviously are, as you've spent 3 hearings here, I believe and you have paid some fees to come before us this last time tonight, my suggestion to you would be to invest a little bit more money and see if you can't get the competent professional advice that you need to bring before us here and a little investment goes a long way.

MR. TORLEY: When you hire the appraiser or whatever he or she will give you some recommendations as to whether or not they can make an adequate case so you want to pay close attention to what they tell you.

MS. BARNHART: We did send this out to the County because it's a use variance and I think you got a response I gave you a copy of all the responses.

MR. TORLEY: We'll read this into the record now Orange County Department of Planning.

MR. LUCIA: All you need to recite--

MR. TORLEY: They sent it back for local determination, no significant intermunicipal or county-wide considerations to bring to your attention. But at least it's not a post card.

MR. GARIN BAKER: I just received this notice and I personally don't have a problem with the usage, is it called a usage variance?

MR. TORLEY: Give us your name.

MR. BAKER: Garin Baker, 478 Union Avenue. I'm the stone house on Union Avenue.

MR. LUCIA: He's on the corner of Cimorelli and Union.

MR. TORLEY: You have no objection?

MR. BAKER: Absolutely not, I have no problem with the entrepreneurial use of the property. I'm also here as preliminary early education on my own part.

MR. SHANAHAN: Does it have any bearing to the board the fact that there's a beauty shop that has been in existence directly across the street from Mr. Mugnano's property, they've issued variances for home use?

MR. MUGNANO: How about the mechanic?

MR. LUCIA: That is there because it pre-existed zoning but it is relevant to the neighborhood.

MR. MUGNANO: How about the mechanic next to them, it's a junk yard.

MR. TORLEY: That is also one that is not by variance

but by pre-existing use.

MR. LUCIA: It does show the character of the neighborhood, it's not relevant to the sense that you can come in and say you already gave this variance to my neighbors who has got a beauty shop but it is relevant to say that I don't live in a neighborhood that is all residential.

MR. SHANAHAN: Landers have been running their business off Cimorelli Drive for 20 years.

MR. LUCIA: That is what we want to hear.

MR. SHANAHAN: At this point, what the board would feel would be adequate to present the case would be a fair real estate market appraisal.

MR. LUCIA: And have the appraisal come in. I gave Mr. Mugnanao a copy of this last time, this is Section 267B of the Town law and I put a little arrow in the margin here next to the 4 factors for use variance, if he decides stop hire a real estate appraiser, those are the four factors he needed to speak to specifically.

MR. TANNER: Or they can retain a lawyer and have them handle it also.

MR. SHANAHAN: Part of the problem is a language barrier.

MR. LANGANKE: He is going to have to show that he can't sell his house for a fair price and that is going to be very difficult to do.

MR. TORLEY: You have got to show--

MR. HOGAN: It's a literal interpretation of the first statement, it's saying that a fair return is possible and fair in relationship to the balance of the neighborhood and you'd do well to talk to a real estate appraiser.

MR. LUCIA: That is what we need to hear.

MR. MUGNANO: Okay, do whatever I got to do. If I can't get it this way, I understand now I can be a music studio and I put musical studio and do something all day.

MR. TORLEY: The way the code is written now as I said before it's strange you can groom a dog but you can't groom a person but that is what we're stuck with.

MR. LUCIA: Mr. Mugnano do you have some time in which you think you can speak to a professional and would want to come back to us? We're in the middle of a public hearing so we need to adjourn it to a specific date. Do you think you can do our next meeting would be two weeks from now July 12, you think you can do it that week?

MR. MUGNANO: Let me see if I find somebody, I'll call, I'm leaving 21 of July and I'll be back the tenth of August.

MR. TORLEY: You might want to put it back to August.

MR. MUGNANO: If I can get somebody.

MS. BARNHART: Why don't you be in touch with me and let me know when you'll be available.

MR. LUCIA: First August meeting would be August 9, will you be back by then?

MR. MUGNANO: No, I'll be back the tenth.

MR. LUCIA: Next would be August 23, if we have a second meeting. We'll adjourn for one meeting, you call Pat sometime before our next meeting which is going to be July 12, tell her whether you're going to be able to get somebody and when at that meeting.

MR. MUGNANO: You need a report or the person got to come here?

MR. LUCIA: All we need by the 12th is a timetable you tell us if an appraisor can come in and talk to you say July the 12 but if you are not ready to proceed call

June 28, 1993

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Pat and tell her what you're doing.

MR. TORLEY: If you can't get reasonable return as a house but only if you can get a business in it.

MR. MUGNANO: Thank you.



Rec'd.
ZBA - 6/17/93
(AAB)
C.O. ZBA

COUNTY OF ORANGE Department of Planning

124 MAIN STREET, P.O. BOX 968, GOSHEN, NEW YORK 10924
TEL: (914) 294-5151 FAX: (914) 294-3546

Mary M. McPhillips
County Executive

Peter Garrison
Commissioner of Planning

ORANGE COUNTY DEPARTMENT OF PLANNING 239 L, M OR N REPORT

R. Vincent Hammond
Deputy Commissioner

This proposed action is being reviewed as an aid in coordinating such action between and among governmental agencies by bringing pertinent inter-community and countywide considerations to the attention of the municipal agency having jurisdiction.

Referred by:

OCDP Reference No.: NWT 7-93-M
County I.D. No.: 7-1-20

Town of New Windsor

Applicant:

Pasquale Mugnano

Proposed Action:

Use Variance - To make a barber shop part of a residence.

State, County, Inter-Municipal Basis for Review:

Within 500' of OC Hwy. #69

Comments:

There are no significant inter-municipal or countywide considerations to bring to your attention.

Related Reviews and Permits:

County Action: Local Determination X Disapproved Approved

Approved subject to the following modifications and/or conditions:

Date:
6/15/93


Deputy Commissioner

OFFICE OF THE BUILDING INSPECTOR - TOWN OF NEW WINDSOR
ORANGE COUNTY, NY

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

DATE: _____

APPLICANT: PASQUALE MUGNANO
2 Cimorelli Dr
New Windsor N.Y.

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED 10-2-91
FOR (BUILDING PERMIT) of a Proposed Barber Shop
LOCATED AT 2 Cimorelli Dr

ZONE R-4

DESCRIPTION OF EXISTING SITE: SEC: 7 BLOCK: 1 LOT: 20

House is Now A Two Family House

IS DISAPPROVED ON THE FOLLOWING GROUNDS: Business Not Permitted
IN A R-4 ZONE Proposed Barber Shop

Frank Lin
BUILDING INSPECTOR

REQUIREMENTS

PROPOSED OR
AVAILABLE

VARIANCE
REQUEST

ZONE B-4 USE _____

MIN. LOT AREA _____

MIN. LOT WIDTH _____

REQ'D FRONT YD _____

New Windsor NY

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED 10-2-91
FOR (BUILDING PERMIT) of a Proposed Barber Shop
LOCATED AT 2 Cimorelli DR
ZONE R-4

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IN A R-4 ZONE Proposed Barber Shop

Frank Lin
BUILDING INSPECTOR

REQUIREMENTS	PROPOSED OR AVAILABLE	VARIANCE REQUEST
ZONE <u>R-4</u> USE _____		
MIN. LOT AREA _____	_____	_____
MIN. LOT WIDTH _____	_____	_____
REQ'D FRONT YD _____	_____	_____
REQ'D SIDE YD. _____	_____	_____
REQ'D TOTAL SIDE YD. _____	_____	_____
REQ'D REAR YD. _____	_____	_____
REQ'D FRONTAGE _____	_____	_____
MAX. BLDG. HT. _____	_____	_____
FLOOR AREA RATIO _____	_____	_____
MIN. LIVABLE AREA _____	_____	_____
DEV. COVERAGE _____ %	_____ %	_____ %

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT:
[REDACTED] TO MAKE AN APPOINTMENT WITH THE ZONING BOARD
OF APPEALS.

(914) 363-4630

CC: Z.B.A., APPLICANT, B.P. FILE

IMPORTANT
REQUIRED INSPECTIONS OF CONSTRUCTION - YOU MUST CALL FOR THESE

OTHER INSPECTIONS WILL BE MADE IN MOST CASES, BUT THOSE LISTED BELOW MUST BE MADE OR CERTIFICATE OF OCCUPANCY MAY BE WITHHELD. DO NOT MISTAKE AN UNSCHEDULED INSPECTION FOR ONE OF THOSE LISTED BELOW. UNLESS AN INSPECTION REPORT IS LEFT ON THE JOB INDICATING APPROVAL OF ONE OF THESE INSPECTIONS, IT HAS NOT BEEN APPROVED, AND IT IS IMPROPER TO CONTINUE BEYOND THAT POINT IN THE WORK. ANY DISAPPROVED WORK MUST BE REINSPECTED AFTER CORRECTION.

1. WHEN EXCAVATING IS COMPLETE AND FOOTING FORMS ARE IN PLACE (BEFORE POURING).
2. FOUNDATION INSPECTION. CHECK HERE FOR WATERPROOFING AND FOOTINGS DRAINS.
3. INSPECT GRAVEL BASE UNDER CONCRETE FLOORS, AND UNDERSLAB PLUMBING.
4. WHEN FRAMING IS COMPLETED, AND BEFORE IT IS COVERED FROM INSIDE, AND PLUMBING ROUGH-IN.
5. INSULATION.
6. PLUMBING FINAL & FINAL HAVE ON HAND ELECTRICAL INSPECTION DATA AND FINAL CERTIFIED PLOT PLAN. BUILDING IS TO BE COMPLETED AT THIS TIME. WELL WATER TEST REQUIRED AND ENGINEERS CERTIFICATION LETTER FOR SEPTIC SYSTEM REQUIRED.
7. DRIVEWAY INSPECTION MUST MEET APPROVAL OF TOWN HIGHWAY INSPECTOR. A DRIVEWAY BOND MAY BE REQUIRED.
8. \$20.00 CHARGE FOR ANY SITE THAT CALLS FOR THE INSPECTION TWICE.
9. PERMIT NUMBER MUST BE CALLED IN WITH EACH INSPECTION.
10. THERE WILL BE NO INSPECTIONS UNLESS YELLOW PERMIT CARD IS POSTED.
11. SEWER PERMITS MUST BE OBTAINED ALONG WITH BUILDING PERMITS FOR NEW HOUSES.
12. SEPTIC PERMIT MUST BE SUBMITTED WITH ENGINEER'S DRAWING & PERC TEST.
13. ROAD OPENING PERMITS MUST OBTAINED FROM TOWN CLERKS OFFICE.
14. ALL BUILDING PERMITS WILL NEED A CERTIFICATION OF OCCUPANCY OR A CERTIFICATE OF COMPLIANCE AND THERE IS A FEE FOR THIS

Name of Owner of Premises PASQUALE F MUGNANO

Address 2 CIMORELLI DR Phone 562 8277

Name of Architect

Address Phone

Name of Contractor

Address Phone

State whether applicant is owner, lessee, agent, architect, engineer or builder

If applicant is a corporation, signature of duly authorized officer.

.....
(Name and title of corporate officer)

1. On what street is property located? On the CIMORELLI DR side of UNION AV

(N S E W)

IF ANY OF THESE INSPECTIONS, IT HAS NOT BEEN APPROVED, AND IT IS IMPROPER TO CONTINUE BEYOND THAT POINT IN THE WORK. ANY DISAPPROVED WORK MUST BE REINSPECTED AFTER CORRECTION.

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Name of Owner of Premises

PASQUALE F MUGNANO

Address

2 CINDORELLI DR

Phone

562 8277

Name of Architect

Address

Phone

Name of Contractor

Address

Phone

State whether applicant is owner, lessee, agent, architect, engineer or builder

If applicant is a corporation, signature of duly authorized officer.

(Name and title of corporate officer)

1. On what street is property located? On the CINDORELLI DR side of UNION AV
(N.S.E. or W.)
and feet from the intersection of
2. Zone or use district in which premises are situated R-4 Is property a flood zone? Yes..... No.....
3. Tax Map description of property: Section Block Lot 20
4. State existing use and occupancy of premises and intended use and occupancy of proposed construction 2 FAMILY
a. Existing use and occupancy b. Intended use and occupancy on BARBERSHIRE?
5. Nature of work (check which applicable): New Building..... Addition..... Alteration..... Repair.....
Removal..... Demolition..... Other.....
6. Size of lot: Front Rear..... Depth..... Front Yard..... Rear Yard..... Side Yard.....
Is this a corner lot?
7. Dimensions of entire new construction: Front..... Rear..... Depth..... Height..... Number of stories.....
8. If dwelling, number of dwelling units..... Number of dwelling units on each floor.....
Number of bedrooms..... Baths..... Toilets.....
Heating Plant: Gas..... Oil..... Electric/Hot Air..... Hot Water.....
If Garage, number of cars.....
9. If business, commercial or mixed occupancy, specify nature and extent of each type of use
10. Estimated cost..... Fee.....
(to be paid on this application)
11. School District

Costs for the work described in the Application for Building Permit include the cost of all the construction and other work done in connection therewith, exclusive of the cost of the land. If final cost shall exceed estimated cost, an additional fee may be required before the issuance of Certificate of Occupancy.

BUSS NOT PERMIT IN R-4 ZONE - (PROFF. SERVICE)

TOWN OF NEW WINDSOR, ORANGE COUNTY, N. Y.

Examined.....19.....
Approved.....19.....
Disapproved a/c.....
Permit No.

Office Of Building Inspector
Michael L. Babcock
Town Hall, 555 Union Avenue
New Windsor, New York 12550
Telephone 565-8807

Refer —

Planning Board.....
Highway.....
Sewer
Water
Zoning Board of Appeals

APPLICATION FOR BUILDING PERMIT

Pursuant to New York State Building Code and Town Ordinances

Date.....19.....

INSTRUCTIONS

- This application must be completely filled in by typewriter or in ink and submitted in duplicate to the Building Inspector.
- Plot plan showing location of lot and buildings on premises, relationship to adjoining premises or public streets or areas, and giving a detailed description of layout of property must be drawn on the diagram which is part of this application.
- This application must be accompanied by two complete sets of plans showing proposed construction and two complete sets of specifications. Plans and specifications shall describe the nature of the work to be performed, the materials and equipment to be used and installed and details of structural, mechanical and plumbing installations.
- The work covered by this application may not be commenced before the issuance of a Building Permit.
- Upon approval of this application, the Building Inspector will issue a Building Permit to the applicant together with approved set of plans and specifications. Such permit and approved plans and specifications shall be kept on the premises, available for inspection throughout the progress of the work.
- No building shall be occupied or used in whole or in part for any purpose whatever until a Certificate of Occupancy shall have been granted by the Building Inspector.

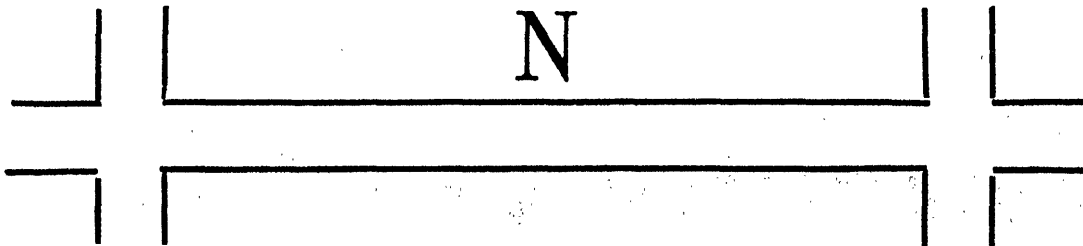
APPLICATION IS HEREBY MADE to the Building Inspector for the issuance of a Building Permit pursuant to the New York Building Construction Code Ordinances of the Town of New Windsor for the construction of buildings, additions or alterations, or for removal or demolition or use of property, as herein described. The applicant agrees to comply with all applicable laws, ordinances, regulations and certifies that he is the owner or agent of all that certain lot, piece or parcel of land and/or building described in this application and if not the owner, that he has been duly and properly authorized to make this application and to assume responsibility for the owner in connection with this application.

Rosale Fellipino
(Signature of Applicant)

2 C. MORELLI DR - NEW WINDSOR
(Address of Applicant)

PLOT PLAN

NOTE: Locate all buildings and indicate all set-back dimensions.
Applicant must indicate the building line or lines clearly and distinctly on the drawings.



Refer -
Planning Board.....
Highway.....
Sewer.....
Water.....
Zoning Board of Appeals

APPLICATION FOR BUILDING PERMIT
Pursuant to New York State Building Code and Town Ordinances

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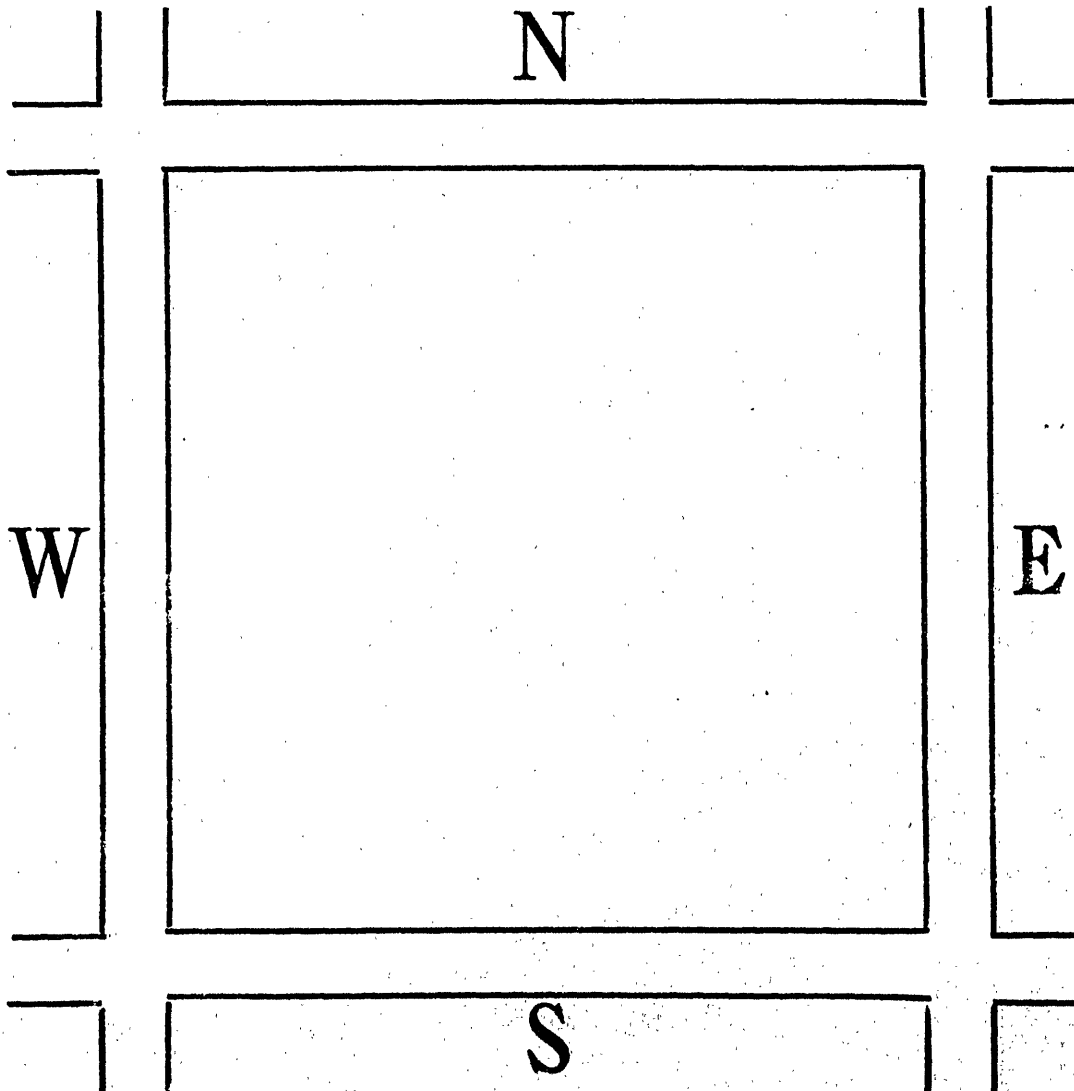
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Rosale Fallick
(Signature of Applicant)

221 MORELLI DR - NEW WINDSOR
(Address of Applicant)

PLOT PLAN

NOTE: Locate all buildings and indicate all set-back dimensions.
Applicant must indicate the building line or lines clearly and distinctly on the drawings.



6/28/93

Public Hearing - Magnano, Lasgualle

Name:

Address:

No objection

GARIN BAKER

478 Umare Ave.

(Eva
Venice)
opposed -

Log Venice

303 Mena St

B.

ORANGE COUNTY DEPARTMENT OF PLANNING
APPLICATION FOR MANDATORY COUNTY REVIEW
OF LOCAL PLANNING ACTION
(Variances, Zone Changes, Special Permits, Subdivisions)

Section A. - To be completed by Local Board having jurisdiction.
To be signed by Local Official.

Local File No. 93-14

1. Municipality TOWN OF NEW WINDSOR Public Hearing Date 6/28/93

☐ City, Town or Village Board ☐ Planning Board ☒ Zoning Board of Appeals

2. Applicant: NAME PASQUALE MIGNANO

Address 2 Cimorelli Drive, New Windsor, N. Y. 12553

Attorney, Engineer, Architect -

3. Location of Site: Corner of Cimorelli Drive and Union Avenue
(street or highway, plus nearest intersection)

Tax Map Identification: Section 7 Block 1 Lot 20

Present Zoning District R-4 Size of Parcel 165 x 169

4. Type of Review:

☐ Special Permit Use*

☒ Variance* Use Barber shop as part of residence
Area

☐ Zone Change* From: To:

☐ Zoning Amendment* To Section:

☐ Subdivision** Major Minor

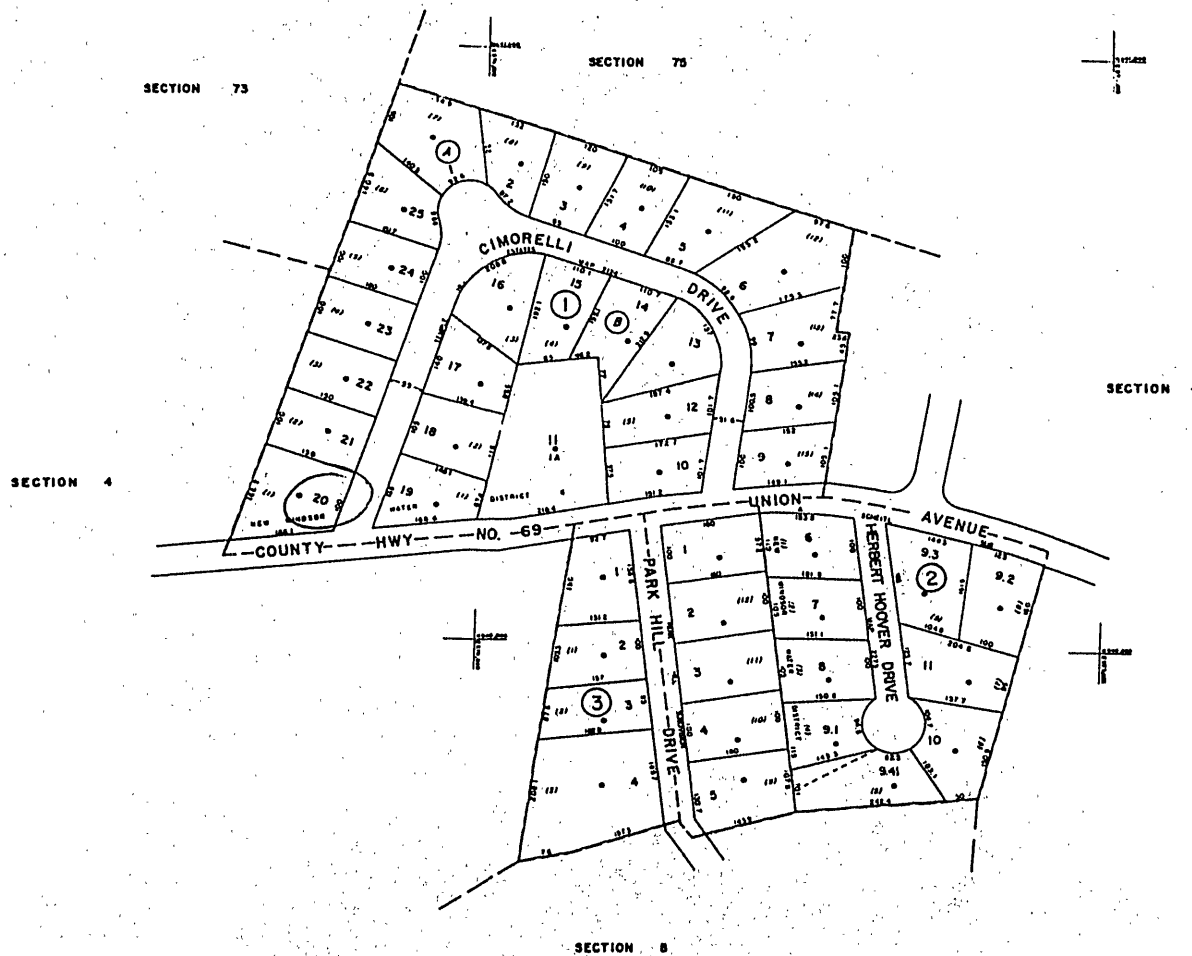
5/25/93
Date

Patricia A. Brunkhart Sec'y.
Signature and Title
IBA

*Cite Section of Zoning Regulations where pertinent

**Three (3) copies of map must be submitted if located along County Highway, otherwise, submit two (2) copies of map.

OCPD-1



7-1-20

ALL MEAS.
ALL VARS.

Prepared by
AERO SERVICE
CORPORATION
A DIVISION OF AEROSPACE INDUSTRIES
FOR TAX PURPOSES ONLY
NOT TO BE USED FOR CONVEYANCE

LEGEND			
STATE OR COUNTY LINE	FINED PLAN LOT LINE	TAX MAP BLOCK NO.	FINED PLAN BLOCK NO.
CITY OR TOWN VILLAGE LINE	BARREMENT LINE	TAX MAP PARCEL NO.	FINED PLAN PARCEL NO.
PLAT & SECTION LINE	WATCH LINE	AREAS	AREAS
PERSONAL PROPERTY LINE	STREET	Subdivisions (except as shown on this map)	Subdivisions (except as shown on this map)
PROPERTY LINE		County boundaries	County boundaries
		Town roads	Town roads

ORANGE COUNTY-NEW YORK

Photo No. 18-67-48 Date of Map 9-25-67
Date of Photo 3-1-59 Date of Revision 2-1-59
Scale 1" = 100'

TOWN OF NEW

Section No. 7

PUBLIC NOTICE OF HEARING BEFORE
ZONING BOARD OF APPEALS
TOWN OF NEW WINDSOR

PLEASE TAKE NOTICE that the Zoning Board of Appeals
of the TOWN OF NEW WINDSOR, New York will hold a
Public Hearing pursuant to Section 48-34A of the
Zoning Local Law on the following proposition:

Appeal No. 14

Request of PASQUALE MUGNANO

for a VARIANCE of

the regulations of the Zoning Local Law to

permit a barber shop as an accessory use

to the residential dwelling;

being a VARIANCE of

Section 48-9 - Table of Use/Bulk Regs.-Col. A/M

for property situated as follows:

2 Cimorelli Drive, New Windsor, N. Y., known

as tax map Section 7 - Blk. 1 - Lot 20.

SAID HEARING will take place on the 28th day of
June, 1993, at the New Windsor Town Hall,
555 Union Avenue, New Windsor, N. Y. beginning at
7:30 o'clock P. M.

JAMES NUGENT
Chairman



TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

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June 7, 1993

Pasquale & Anna Mugnano
2 Cimorelli Dr.
New Windsor, NY 12553

Re: Tax Map Parcel: 7-1-20

Dear Mr. Mugnano:

According to our records, the attached list of property owners are within five hundred (500) feet of the above referenced property.

The charge for this service is \$55.00, minus your deposit of \$25.00. Please remit the balance of \$30.00 to the Town Clerk's office.

Sincerely,

Leslie Cook (CD)

Leslie Cook
SOLE ASSESSOR

LC/cad
Attachments
cc: Pat Barnhart

Davis, Clifford E. & Elizabeth H.
14 Cimorelli Dr.
New Windsor, NY 12553

Riccio, Albert J. & Gladys M.
17 Cimorelli Dr.
New Windsor, NY 12553

Baker, Garin
478 Union Ave.
New Windsor, NY 12553

Lindenauer, Harvey & Maxine E.
15 Cimorelli Dr.
New Windsor, NY 12553

Spicci, Patricia A. & Soukop, Vincent L.
13 Cimorelli Dr.
New Windsor, NY 12553

Ferraiulo, Anthony P. & Shirley P.
11 Cimorelli Dr.
New Windsor, NY 12553

Gearn, Helen Vernooy
c/o Ann Randzin
Box 453 New Hurley Rd.
Wallkill, NY 12589

Kohovalenko, Vasily & Anna
7 Cimorelli Dr.
New Windsor, NY 12553

Davis, Paul J. & Ruth W.
3 Cimorelli Dr.
New Windsor, NY 12553

Coe, Russell H. & Marlis F.
1 Cimorelli Dr.
New Windsor, NY 12553

Laudato, Alberto & Anna Rose
4 Cimorelli Dr.
New Windsor, NY 12553

Katz, Seymour & Rae
6 Cimorelli Dr.
New Windsor, NY 12553

Clayton Charles D. & Mary Elizabeth
8 Cimorelli Dr.
New Windsor, NY 12553

Blumenthal, Judah M. & Donna Irene
10 Cimorelli Dr.
New Windsor, NY 12553

Lander, Ronald F. & Ellen A.
12 Cimorelli Dr.
New Windsor, NY 12553

Tom Wai King & Victor
1 Park Hill Dr.
New Windsor, NY 12553

Peragine, Joseph Thomas
2 Park Hill Dr.
New Windsor, NY 12553

Horan, Edward G. & Dina M.
4 Park Hill Dr.
New Windsor, NY 12553

Tucker, Harold & Frances T.
6 Park Hill Dr.
New Windsor, NY 12553

Petro, John & Martha
8 Parkhill Dr.
New Windsor, NY 12553

The City School District of the City of Newburgh
98 Grand St.
Newburgh, NY 12550

Paolo, Elizabeth H. & Sperrey, Llewellyn A. & Mary B.
502 Union Ave.
New Windsor, NY 12553

Cherry, Bethann
5 Cimorelli Dr.
New Windsor, NY 12553

Mc Phillips, William & Eda
481 Union Ave.
New Windsor, NY 12553

Zaloga, Matthew S. & Anne M.
522 Union Ave.
New Windsor, NY 12553

Cohen, Sy S.
522 Union Ave.
New Windsor, NY 12553

Serbus, Michael W.
510 Union Ave.
New Windsor, NY 12553

Venus, Eva G.
303 Nina St.
New Windsor, NY 12553

Gosda, Keith D. & Katherine M.
310 Nina St.
New Windsor, NY 12553

Lathrop, John & Pamela
312 Nina St.
New Windsor, NY 12553

Wasilchuk, Bruce A. & Carolyn J.
314 Nina St.
New Windsor, NY 12553

Valley, Dwight E. Jr. & Nancy E.
422 Philo St.
New Windsor, NY 12553

Fleming, Robert B. & Vicky A.
424 Philo St.
New Windsor, NY 12553

Spina, Charles M. & Marie
38A Susan Dr.
Newburgh, NY 12553

Meo, Richard & Jean
311 Nina St.
New Windsor, NY 12553

Hicks, Ronnie L. & Carol Ann
309 Nina St.
New Windsor, NY 12553

Langle, Richard P. & Patricia
307 Nina St.
New Windsor, NY 12553

Di Vincenzo, Joseph & Cheryl J.
305 Nina St.
New Windsor, NY 12553

AFFIDAVIT

STATE OF NEW YORK)
) SS.:
COUNTY OF ORANGE)

VAUGHAN E. MALDFELD, being duly sworn, deposes and says:

I am the previous owner of the property located at 2
Cimorelli Drive, New Windsor, New York, known as tax map Section
7 Block 1 Lot 20.

On October 19, 1964, I purchased the property and used it as a two-family house. I then sold the property to PASQUALE and ANNA MARIA MUGNANO on July 14, 1975.

To my knowledge, the property has always been used as a two-family residence from October 19, 1964 to the present time.

x Vaughn E. Maldfeld
VAUGHN E. MALDFELD

Sworn to before me this

21st day of May, 1993.

Patricia A. Lambert
Notary Public

PATRICIA A. BARNHART
Notary Public, State of New York
No. 01BA4904434
Qualified in Orange County
Commission Expires August 31, 1993



TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK

Prelim.
Sept. 10, 1990.
7:30 pm.

#90-26

NOTICE OF DISAPPROVAL OF BUILDING PERMIT
1763

FILE NUMBER 90-21
TO: PASQUALE F. MUGNANO
2 CIMORELLI DR.
NEW WINDSOR, NY. 12553

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED 7/31/90
FOR PERMIT TO USE PREMISE AS A BEAUTY PARLOR
AT 2 CIMORELLI DR. IS DISSAPROVED ON THE
FOLLOWING GROUNDS ^{Barber,} BEAUTY PARLOR NOT PERMITTED IN
R-4 ZONE.

ZONE R-4 TYPE OF VARIANCE USE

REQUIREMENTS	PROPOSED	VARIANCE

CALL PAT BARNHART (ZBA SECRETARY) AT 565-8550 FOR APPOINTMENT

Dino J. Sciamanna

BUILDING/ZONING INSPECTOR

IMPORTANT
REQUIRED INSPECTIONS OF CONSTRUCTION - YOU MUST CALL FOR THESE

OTHER INSPECTIONS WILL BE MADE IN MOST CASES, BUT THOSE LISTED BELOW MUST BE MADE OR CERTIFICATE OF OCCUPANCY MAY BE WITHHELD. DO NOT MISTAKE AN UNSCHEDULED INSPECTION FOR ONE OF THOSE LISTED BELOW. UNLESS AN INSPECTION REPORT IS LEFT ON THE JOB INDICATING APPROVAL OF ONE OF THESE INSPECTIONS, IT HAS NOT BEEN APPROVED, AND IT IS IMPROPER TO CONTINUE BEYOND THAT POINT IN THE WORK. ANY DISAPPROVED WORK MUST BE REINSPECTED AFTER CORRECTION.

CALL ONE DAY AHEAD FOR ALL INSPECTIONS TO AVOID DELAYS - 565-8807

- 1- WHEN EXCAVATING IS COMPLETE AND FOOTING FORMS ARE IN PLACE (BEFORE POURING).
- 2- FOUNDATION INSPECTION - CHECK HERE FOR WATERPROOFING AND FOOTING DRAINS.
- 3- INSPECT GRAVEL BASE UNDER CONCRETE FLOORS, AND UNDERSLAB PLUMBING.
- 4- WHEN FRAMING IS COMPLETED, AND BEFORE IT IS COVERED FROM INSIDE, AND PLUMBING ROUGH-IN.
- 5- INSULATION.
- 6- PLUMBING FINAL & FINAL. HAVE ON HAND ELECTRICAL INSPECTION DATA PER THE BOARD OF FIRE UNDERWRITERS, AND FINAL CERTIFIED PLOT PLAN. BUILDING IS TO BE COMPLETE AT THIS TIME. WELL WATER TEST REQUIRED AND ENGINEERS CERTIFICATION LETTER FOR SEPTIC SYSTEM REQUIRED.
- 7- DRIVEWAY INSPECTION MUST MEET APPROVAL OF TOWN HIGHWAY INSPECTOR. A DRIVEWAY BOND MAY BE REQUIRED.
- 8- \$20.00 CHARGE FOR ANY SITE THAT CALLS FOR THE SAME INSPECTION TWICE.
- 9- PERMIT NUMBER MUST BE CALLED IN WITH EACH INSPECTION.
- 10- THERE WILL BE NO INSPECTIONS UNLESS YELLOW PERMIT CARD IS POSTED.
- 11- SEWER PERMITS MUST BE OBTAINED ALONG WITH BUILDING PERMITS FOR NEW HOUSES.
- 12- SEPTIC PERMIT MUST BE SUBMITTED WITH ENGINEER'S DRAWING & PERC TEST.
- 13- ROAD OPENING PERMITS MUST BE OBTAINED FROM TOWN CLERK'S OFFICE.
- 14- ALL BUILDING PERMITS WILL NEED A CERTIFICATE OF OCCUPANCY OR A CERTIFICATE OF COMPLIANCE AND THERE IS A \$15.00 FEE FOR THIS.

Name of Owner of Premises Pasquale F. Mugnano
Address 2 Cimorelli Drive, New Windsor, N.Y. Phone _____
Name of Architect _____
Address _____ Phone _____
Name of Contractor _____
Address _____ Phone _____
State whether applicant is owner, lessee, agent, architect, engineer or builder _____
If applicant is a corporation, signature of duly authorized officer. _____

(Name and title of corporate officer)

1. On what street is property located? On the N side of CIMORELLI DR.
(N.S.E. or W.)
and 0 feet from the intersection of UNION AVE
2. Zone or use district in which premises are situated. Is property in a flood zone? Yes _____ No X R4 ZONE
3. Tax Map description of property: Section 7 Block 1 Lot 2A

APPROVAL OF ONE OF THESE INSPECTIONS, IT HAS NOT BEEN APPROVED, AND IT IS IMPROPER TO CONTINUE BEYOND THAT POINT IN THE WORK. ANY DISAPPROVED WORK MUST BE REINSPECTED AFTER CORRECTION.

CALL ONE DAY AHEAD FOR ALL INSPECTIONS TO AVOID DELAYS - 565-8807

- 1- WHEN EXCAVATING IS COMPLETE AND FOOTING FORMS ARE IN PLACE (BEFORE POURING).
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Name of Owner of Premises Pasquale F. Mugnano
Address 2 Cimarelli Drive, New Windsor, N.Y. Phone _____
Name of Architect _____
Address _____ Phone _____
Name of Contractor _____
Address _____ Phone _____
State whether applicant is owner, lessee, agent, architect, engineer or builder _____
If applicant is a corporation, signature of duly authorized officer.

(Name and title of corporate officer)

1. On what street is property located? On the N side of CIMORELLI DR.
(N.S.E. or W.)
and 0 feet from the intersection of UNION AVE
2. Zone or use district in which premises are situated. Is property in a flood zone? Yes X No X R4 ZONE
3. Tax Map description of property: Section 7 Block 1 Lot 20
4. State existing use and occupancy of premises and intended use and occupancy of proposed construction:
a. Existing use and occupancy TWO FAMILY b. Intended use and occupancy TWO FAMILY AND BEAUTY PARLORS
5. Nature of work (check which applicable): New Building X Addition X Alteration X Repair X
Removal X Demolition X Other X
6. Size of lot: Front Rear 168 Depth 150 Front Yard X Rear Yard X Side Yard X
Is this a corner lot? YES
7. Dimensions of entire new construction: Front NA Rear NA Depth X Height X Number of stories X
8. If dwelling, number of dwelling units X Number of dwelling units on each floor X
Number of bedrooms X Baths X Toilets X
Heating Plant: Gas X Oil X Electric/Hot Air X Hot Water X
If Garage, number of cars X
9. If business, commercial or mixed occupancy, specify nature and extent of each type of use X
10. Estimated cost X Fee X

(to be paid on filing this application)

Costs for the work described in the Application for Building Permit include the cost of all the construction and other work done in connection therewith, exclusive of the cost of the land. If final cost shall exceed estimated cost, an additional fee may be required before the issuance of Certificate of Occupancy.

TOWN OF NEW WINDSOR, ORANGE COUNTY, N. Y.

Examined.....19.....

Approved.....19.....

Disapproved a/c.....

Permit No.

Office Of Building Inspector

Michael L. Babcock

Town Hall, 555 Union Avenue

New Windsor, New York 12550

Telephone 565-8807

Refer —

Planning Board.....

Highway.....

Sewer.....

Water.....

Zoning Board of Appeals.....

APPLICATION FOR BUILDING PERMIT

Pursuant to New York State Building Code and Town Ordinances

Date July 31 1990

INSTRUCTIONS

- This application must be completely filled in by typewriter or in ink and submitted in duplicate to the Building Inspector.
- Plot plan showing location of lot and buildings on premises, relationship to adjoining premises or public streets or areas, and giving a detailed description of layout of property must be drawn on the diagram which is part of this application.
- This application must be accompanied by two complete sets of plans showing proposed construction and two complete sets of specifications. Plans and specifications shall describe the nature of the work to be performed, the materials and equipment to be used and installed and details of structural, mechanical and plumbing installations.
- The work covered by this application may not be commenced before the issuance of a Building Permit.
- Upon approval of this application, the Building Inspector will issue a Building Permit to the applicant together with approved set of plans and specifications. Such permit and approved plans and specifications shall be kept on the premises, available for inspection throughout the progress of the work.
- No building shall be occupied or used in whole or in part for any purpose whatever until a Certificate of Occupancy shall have been granted by the Building Inspector.

APPLICATION IS HEREBY MADE to the Building Inspector for the issuance of a Building Permit pursuant to the New York Building Construction Code Ordinances of the Town of New Windsor for the construction of buildings, additions or alterations, or for removal or demolition or use of property, as herein described. The applicant agrees to comply with all applicable laws, ordinances, regulations and certifies that he is the owner or agent of all that certain lot, piece or parcel of land and/or building described in this application and if not the owner, that he has been duly and properly authorized to make this application and to assume responsibility for the owner in connection with this application.

(Signature of Applicant)

(Address of Applicant)

PLOT PLAN

NOTE: Locate all buildings and indicate all set-back dimensions.

Applicant must indicate the building line or lines clearly and distinctly on the drawings.

N

Refer —
Planning Board.....
Highway.....
Sewer.....
Water.....
Zoning Board of Appeals.....

APPLICATION FOR BUILDING PERMIT
Pursuant to New York State Building Code and Town Ordinances

Date July 31 1990

INSTRUCTIONS

- a. This application must be completely filled in by typewriter or in ink and submitted in duplicate to the Building Inspector.
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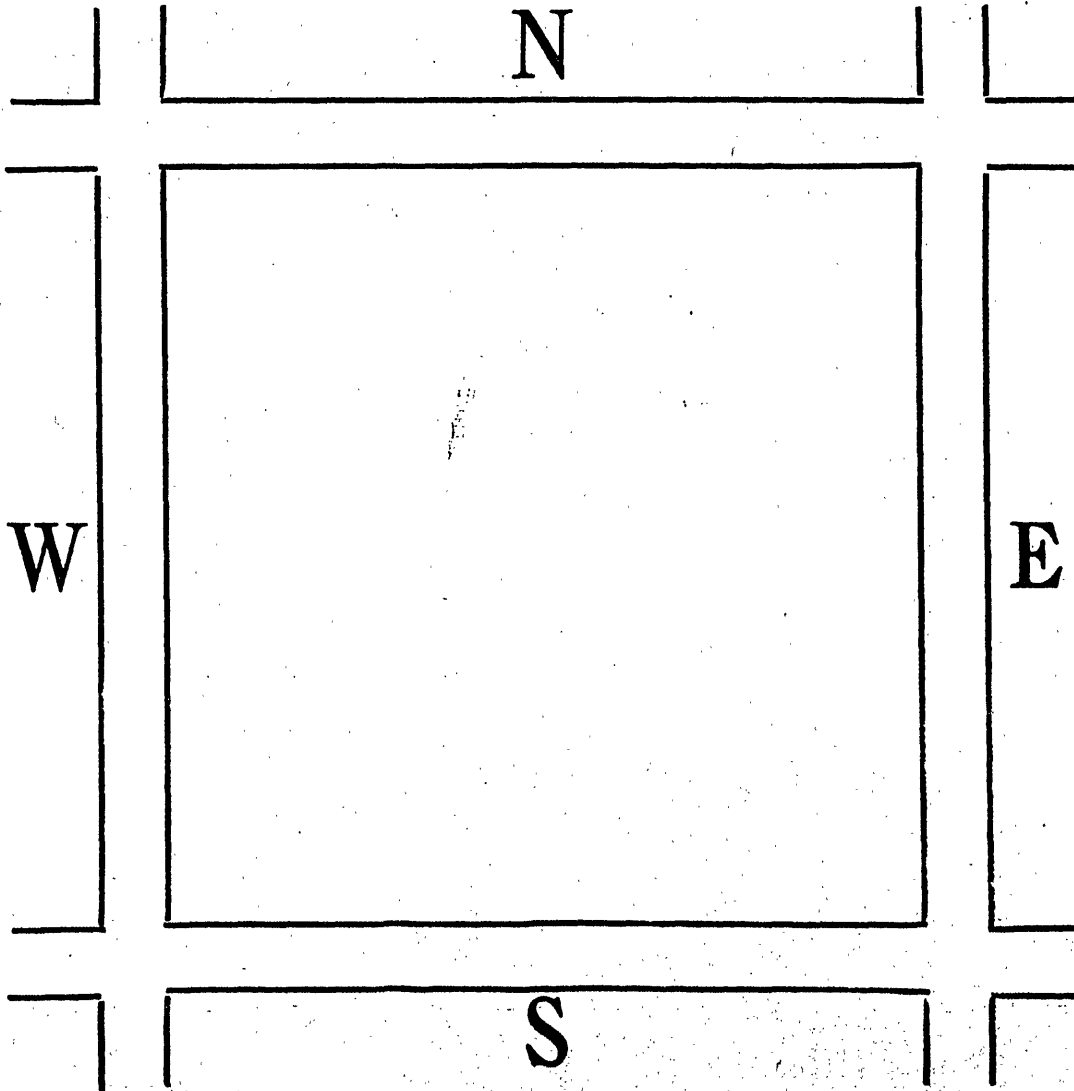
.....
(Signature of Applicant)

.....
(Address of Applicant)

PLOT PLAN

NOTE: Locate all buildings and indicate all set-back dimensions.

Applicant must indicate the building line or lines clearly and distinctly on the drawings.



ZONING BOARD OF APPEALS : TOWN OF NEW WINDSOR
COUNTY OF ORANGE : STATE OF NEW YORK

-----x
In the Matter of Application for Variance of

Pasquale Mugnano.

Applicant.

AFFIDAVIT OF
SERVICE
BY MAIL

93-14

-----x
STATE OF NEW YORK)
) SS.:
COUNTY OF ORANGE)

PATRICIA A. BARNHART, being duly sworn, deposes and says:

That I am not a party to the action, am over 18 years of age
and reside at 7 Franklin Avenue, New Windsor, N. Y. 12553.

On June 16, 1993., I compared the 38. addressed
envelopes containing the attached Notice of Public Hearing with
the certified list provided by the Assessor regarding the above
application for variance and I find that the addressees are
identical to the list received. I then mailed the envelopes in a
U. S. Depository within the Town of New Windsor.

Patricia A. Barnhart
Patricia A. Barnhart

Sworn to before me this
17th day of June, 1993).

Deborah Green
Notary Public
DEBORAH GREEN
Notary Public, State of New York
Qualified in Orange County
4984066
Commission Expires July 15, 1995

(TA DOCDISK#7-030586.AOS)

B845876

This Indenture,

Made the 14th day of July, nineteen hundred and Seventy-five.

Between VAUGHN E. MALDFELD and HELEN E. MALDFELD, residing at 2 Cimorelli Drive, Town of New Windsor, County of Orange and State of New York,

parties of the first part, and

PASQUALE F. MUGNANO and ANNA MARIA MUGNANO, Husband and Wife, both residing at 85 Mill Street, City of Newburgh, County of Orange and State of New York,

parties of the second part:

Witnesseth, that the parties of the first part, in consideration of --TEN-----
----- (\$10.00) ----- Dollars,
lawful money of the United States,

do hereby grant and release unto the parties of the second part,
their heirs and assigns forever,

All that certain lot, piece or parcel of land situate in the Town of New Windsor, Orange County, New York, bounded and described as follows:

Beginning at a point in the north line of Union Avenue at the southeast corner of lands now or formerly of Flanagan and proceeding along the north line of Union Avenue south 83° 30' East 162.65 feet to a point marked by an iron pipe in the westerly line of a proposed 50 foot road; thence along the westerly line of said proposed 50 foot road North 29° 15' East 100 feet to a point marked by an iron pipe; thence North 60° 45' West 150 feet to a point in stone wall marked by an iron pipe; thence along the stone wall marking the westerly boundary of lands of Brune on the north side of Union Avenue south 29° 15' West 162.90 feet to the point or place of beginning.

TOGETHER with a right in common with all others who may be given similar rights for ingress, egress and regress over and upon a proposed 50 foot wide road lying along the easterly line of said parcel and running southerly to Union Avenue.

Between VAUGHN E. MALDFELD and HELEN E. MALDFELD, residing at 2 Cimorelli Drive, Town of New Windsor, County of Orange and State of New York,

part of the first part, and
PASQUALE F. MUGNANO and ANNA MARIA MUGNANO, Husband and Wife, both residing at 85 Mill Street, City of Newburgh, County of Orange and State of New York,

part of the second part:

Witnesseth, that the parties of the first part, in consideration of --TEN-----
-----(\$10.00)-----Dollars,
lawful money of the United States,

do hereby grant and release unto the parties of the second part,
their heirs and assigns forever,

All that certain lot, piece or parcel of land situate in the Town of New Windsor, Orange County, New York, bounded and described as follows:

Beginning at a point in the north line of Union Avenue at the southeast corner of lands now or formerly of Flanagan and proceeding along the north line of Union Avenue south 83° 30' East 162.65 feet to a point marked by an iron pipe in the westerly line of a proposed 50 foot road; thence along the westerly line of said proposed 50 foot road North 29° 15' East 100 feet to a point marked by an iron pipe; thence North 60° 45' West 150 feet to a point in stone wall marked by an iron pipe; thence along the stone wall marking the westerly boundary of lands of Brune on the north side of Union Avenue south 29° 15' West 162.90 feet to the point or place of beginning.

TOGETHER with a right in common with all others who may be given similar rights for ingress, egress and regress over and upon a proposed 50 foot wide road lying along the easterly line of said parcel and running southerly to Union Avenue.

Also being shown on a survey made by Sidney L. Horowitz, C.E., dated July 7th, 1975 and more particularly described as follows:

ALL that certain lot, piece or parcel of land situate in the Town of New Windsor, Orange County, New York, bounded and described as follows:

BEGINNING at a point in the north line of Union Avenue at the southeast corner of lands now or formerly of Flanagan thence, along the north line of Union Avenue S 87° 25' 30" E, 165.07' to a point; thence along the westerly line of Cimorelli Road N 27° 15' E, 100.0' to a point, thence N 62° 45' W, 150.00' to a point in a stone wall; thence along the stone wall marking the westerly boundary of lands formerly of Brune S 27° 15' W 168.91' to the point and place of beginning.

TOGETHER with a right in common with all others given similar rights for ingress, egress and regress over and upon Cimorelli Road, 50 foot wide road lying along the easterly line of said parcel and running southerly to Union Avenue.

BEING the same premises conveyed to Vaughn E. Maldfeld and Helen E. Maldfeld, as joint tenants with right of survivorship, by Joseph Cimorelli, by Deed dated October 16th, 1964 and recorded in the Orange County Clerk's Office in Liber 1685 of Deeds at page 96 on October 19th, 1964.

Together with the appurtenances and all the estate and rights of the parties of the first part in and to the said premises.

To have and to hold the premises herein granted unto the parties of the second part, their heirs and assigns forever.

And the said parties of the first part covenant that they have not done or suffered anything whereby the said premises have been incumbered in any way whatever

And The grantors, in compliance with Section 13 of the Lien Law, covenant as follows: That they will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement, and that they will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

In Witness Whereof, the parties of the first part have hereunto set their hand and seal this the day and year first above written

In the Presence of:

Vaughn E. Maldfeld
VAUGHN E. MALDFELD
Helen E. Maldfeld
HELEN E. MALDFELD

And the said parties of the first part
covenant that they have not done or suffered anything whereby the said premises have
been incumbered in any way whatever

And The grantors, in compliance with Section 13 of the Lien Law, covenant as
follows: That they will receive the consideration for this conveyance and will hold the
right to receive such consideration as a trust fund to be applied first for the purpose of
paying the cost of the improvement, and that they will apply the same first to the payment
of the cost of the improvement before using any part of the total of the same for any
other purpose.

In Witness Whereof, the parties of the first part have hereunto set their
hand and seals the day and year first above written

In the Presence of:

Vaughn E. Maldfeld
VAUGHN E. MALDFELD
Helen E. Maldfeld
HELEN E. MALDFELD

State of New York, County of ORANGE

SS.:

On the 14TH day of July, nineteen hundred and
Seventy-five before me personally came VAUGHN E. MALDFELD and HELEN E.
MALDFELD
to be the individual s described in, and who executed, the foregoing instrument, and
acknowledged that they executed the same.

JOHN G. STANTON
Notary Public, State of New York
Residing in Orange County
Commission expires March 30, 19.....

RESERVE THIS SPACE FOR USE OF RECORDING OFFICE

ORANGE
COUNTY

0 5 6 4 3 8

REAL ESTATE
TRANSFER TAX
Dept. of
Taxation
& Finance
JUL 16 1975
PB 16951

STATE OF
NEW YORK
32 45
C. N. ...

Orange County Clerk's Office, S.S.
Recorded on the 16th day
of July, 1975 at 7:50
o'clock PM in Liber 2062
at page 381
and Examined.

CT 9 BS 45876

Deed.

VAUGHN E. MALDFELD
and
HELEN E. MALDFELD

TO

PASQUALE MUGNANO
and
ANNA MARIE MUGNANO

Dated, July 14th 19 75

LIBER 2012 PG 534

R.R.

Vincent Gavai

& M.H. St.

Newburgh, N.Y. 12550

STANTON AND STANTON
ATTORNEYS AT LAW

33 QUASSACK AVE. (RT. 9W)

P.O. Box 206

NEWBURGH, NEW YORK, 12550

3245

7-

CT 1

TOWN OF NEW WINDSOR
COUNTY OF ORANGE
555 Union Avenue
New Windsor, New York 12550
Telephone 565-8807

BUILDING DEPARTMENT

Building Permit No: 5147

Location: CIMORELLI DR. E/S

Map No: 334800

Section: 7

Block: 1

Lot: 20.0

CERTIFICATE OF OCCUPANCY

CO No: 91 166

CO Date: 7-15-91

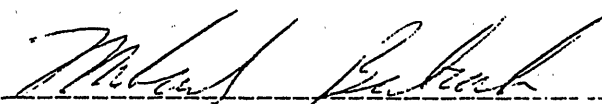
THIS CERTIFIES that the structure described herein, conforms substantially to the approved plans and specifications heretofore filed in this office with Application for Building Permit dated: 10-12-90, pursuant to which Building Permit was issued, and conforms to all the requirements of the applicable provisions of the law.

The structure for which this certificate is issued is as follows:

Material: SEE PLANS	Number of Stories: 0.0	Number of Families: 1
Dimensions of Building: SEE PLANS	Dimensions of Lot: SEE PLANS	
Use of Building: POOL/DECK	Number of Bedrooms: 0	
Number of Toilets: 0	Number of Bathrooms: 0.0	
Heating Plant:		

Remarks: "EXISTING" OVAL POOL 33'X15' WITH 45' DECK ONLY

This certificate is issued to: MUGNANO, PASQUALE
for the aforesaid structure.


Building Inspector

(The Certificate of Occupancy will be issued only after affidavits or other competent evidence is submitted to the Superintendent of Buildings that the completion of the construction in compliance with the State Building Construction Code and with other laws, ordinances or regulations affecting the premises, and in conformity with the approved plans and specifications. A final electrical, plumbing, heating or sanitation certificate or other evidence of compliance may be required before the issuance of the Certificate of Occupancy).

DISTRIBUTION:

ORIG To APPLICANT,

COPY To FILE

TOWN OF NEW WINDSOR
COUNTY OF ORANGE
555 Union Avenue
New Windsor, New York 12550
Telephone 565-8807

BUILDING DEPARTMENT

Building Permit No: 3805

Location: CIMORELLI DR. N/S

Map No: 334800

Section: 7

Block: 1

Lot: 20.0

CERTIFICATE OF OCCUPANCY

CO No: 90-165

CO Date: 7/15/91

THIS CERTIFIES that the structure described herein, conforms substantially to the approved plans and specifications heretofore filed in this office with Application for Building Permit dated: 7/20/87, pursuant to which Building Permit was issued, and conforms to all the requirements of the applicable provisions of the law.

The structure for which this certificate is issued is as follows:

Material: SEE PLANS	Number of Stories: 1.0	Number of Families: 1
Dimensions of Building: 12'X16'	Dimensions of Lot: SEE PLANS	
Use of Building: SHED	Number of Bedrooms: 0	
Number of Toilets: 0	Number of Bathrooms: 0.0	
Heating Plant: N/A		
Remarks: THIS PERMIT ISSUED FOR 12'X16' SHED		

This certificate is issued to: MUGNANO, PASQUALE
for the aforesaid structure.


Building Inspector

(The Certificate of Occupancy will be issued only after affidavits or other competent evidence is submitted to the Superintendent of Buildings that the completion of the construction in compliance with the State Building Construction Code and with other laws, ordinances or regulations affecting the premises, and in conformity with the approved plans and specifications. A final electrical, plumbing, heating or sanitation certificate or other evidence of compliance may be required before the issuance of the Certificate of Occupancy).

FIGURE - NOTES

7-87/2/ shed 200.- #3805

P#5147 \$4,000. (P001 & Deck)10/90

#165 \$200. (Shed) 7/91

#166 \$4,000. (Pool) 7/91

#5461 \$400. (Addit.) 7/91

GAL DESCRIPTION

LT. 1 BIK A Temple Hill Est.

165x169x12

7114175

ASSESSMENT	19 82-83	19 83-84	19 88 ✓	19
LAND	10100	10100	10100	
IMPROVEMENTS	27600	36900	37200	
TOTAL	37700	47000	47300	
EXEMPTION				
TAXABLE				

LAND DESCRIPTION	VALUATION FRONTAGE	VALUATION DEPTH	UNIT PRICE	DEPTH FACTOR	ADJUSTED FF PRICE	INFLUENCE	LAND VALUE
AND CODES							
LOT	1.01	1.50	13.4	10.6	13515.4	-25	
PRIMARY SITE							
SECONDARY SITE							
UNDEVELOPED							
RESIDUAL							
TILLABLE							
PASTURE							
WOODLAND							
WASTELAND							
WUCK							
WATERFRONT							
ORCHARD							
LEAF							
DOMESITE							
APT. SITE							
PROPOSED ROAD							
R.O.W.							
OTHER							
ARMS ONLY:							
DUCTIVITY:							
A B C P S							
EE DE A CLASS)							
TOTAL							

RECORD OF OWNERSHIP

SPECIAL DISTRICTS

SEWER	FIRE
PARK	WATER
SCHOOL	LIGHT
AUDIT CONTROL	
MEASURED BY: _____	DATE: _____
LISTED BY: _____	DATE: _____

ORANGE COUNTY RESIDENTIAL/FARM/VACANT
DATA COLLECTION FORM

SOURCE: 1 OWNER 2 SPOUSE 3 TENANT
4 OTHER 5 ESTIMATE 6 REFUSAL

3348.00 7. 1 20

PROPERTY ADDRESS: 2 Cimorelli Drive

OWNER: Mugnano Pasquale E. ANNA M.

MAILING ADDRESS: 2 Cimorelli Dr

SITE: 0.1 PROPERTY CLASSIFICATION: 220

EXEMPT (E OR N) N

CARD 0.1 OF 0.1 GRID COORDINATES E

SALE PRICE: 29500 DATE: 07-75

SALE PRICE: DATE:

SALES SOURCE: 1 BUYER 2 SELLER 3 FEE 4 AGENT

VERIFICATION VALID SALE: 0 NO 1 YES

SALES TYPE: 1 LAND 2 BUILDING 3 LAND AND BUILDING

SITE DESCRIPTION: GENERAL PROPERTY FACTORS

NEIGHBORHOOD I.D. OS

ZONING: RA

TOPOGRAPHY RATING: 1 GOOD 2 FAIR 3 POOR 4 VERY POOR

LAYOUT (FARMS ONLY): 1 POOR 2 AVERAGE 3 GOOD

FLOOD RATING: 1 ALWAYS 2 MIXED 3 OFTEN 4 SOME 5 NEVER

SITE ELEVATION: 1 BELOW STREET 2 LEVEL 3 ABOVE STREET

DWELLING SETBACK: NEAREST 10 FEET

ROAD: 1 PAVED 2 UNPAVED 3 PROPOSED 0 NONE

SIDEWALK: 1 YES 2 NO

WATER: 0 NONE 1 PRIVATE 2 COMMERCIAL 3 PUBLIC

SEWER: 0 NONE 1 PRIVATE 2 COMMERCIAL 3 PUBLIC

OTHER UTILITIES: 0 NONE 1 GAS 2 ELECTRIC 3 GAS/ELECTRIC

NEIGHBORHOOD TYPE: 1 RURAL 2 URBAN 3 SUBURBAN 4 SUBDIVISION

NEIGHBORHOOD TREND: 1 DECLINING 2 STATIC 3 IMPROVING

NEIGHBORHOOD DESIRABILITY: 1 EXCELLENT 2 VERY GOOD

3 GOOD 4 AVERAGE 5 FAIR 6 POOR 7 VERY POOR

LOT LANDSCAPING: 1 EXCELLENT 2 GOOD 3 FAIR 4 POOR 5 NONE

DRIVEWAY: 1 IMPROVED 2 UNIMPROVED 3 NONE

FRONTING TRAFFIC: 1 LIGHT 2 MEDIUM 3 HEAVY 4 NONE

LOT COMPARED TO SURROUNDINGS: 1 TYPICAL 2 POORER

3 BETTER 4 NONE

SIDENCE DESCRIPTION											
TYPE:											
11-LEVEL	05 COLONIAL	09 CONVTL/BUNG									
PLIT-LEVEL	06 CONTEMPORY	10 MANSION									
RANCH	07 ROW TYPE	11 COTTAGE									
CAPE COD	08 OLD STYLE	12 OTHER/MODLR									
		13 DTHCOL									
NUMBER OF STORIES: 1.0											
TERIOR WALLS:											
CRICK	4 CONC BLK	7 STONE									
RAME	5 STUCCO	8 ALUM. VINYL									
R & FR	6 TILE	9 CONCRETE									
YEAR BUILT 1960 REMODELED 1982											
EFFECTIVE YEAR BUILT: 1											
MS: BED 0.5 BATH 3.0 FAMILY TOTAL 1.2											
EMENT:											
ERS/SLAB 2 CRAWL 3 PART 4 FULL 4											
ISHED AREA (SF) 850											
CAR OPENINGS TWO CAR OPENINGS 1											
TING: 0 NONE 1 INADEQUATE 2 ADEQUATE 2											
T TYPE:											
ONE	2 HOT AIR	4 HOT WATER									
LEC/RADNT	3 STEAM										
EL TYPE:											
JAL	3 GAS	5 SOLAR									
L	4 ELECTRIC										
CONDITIONING: 0 NONE 1 CENTRAL 0											
MBING: 0 NO 1 YES 1											
MBER OF KITCHENS: 2											
LE OF KITCHENS:											
ONE	1 OLD	2 SEMI-MODERN	3 MODERN								
CHEN QUALITY (SEE BATH QL. CODES) 0											
ACHED IMPROVEMENTS											
STR. ODE	MOD. CODE	U	MEASUREMENT 1	MEASUREMENT 2	QUAN. TITY	GR.	YEAR BUILT	RATE	C	FUNC. OBSO.	TOTAL
1	FC1	3	12	198	16	01	1980				
2											
3											
4											
5											
6											
7											
8											
9											
10											
UNITS 1 QUANTITY 2 DIMENSIONS 3 SQUARE FEET 4 DOLLARS (MST ONLY)											
CONDITION 1 GOOD 2 AVERAGE 3 FAIR 4 POOR											
GRADE A EXCELLENT B GOOD C AVERAGE D CHEAP E VERY CHEAP											

Date 6/4/93, 19.....

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

TO Frances Roth 389 Moores Hill Rd DR.
New Windsor Ny 12553

DATE			CLAIMED	ALLOWED
5/24/93		Zoning Board Meeting	75 00	
		Minutes - Misc - 2		
		Harnett - 4 10.00.		
		Maroulis - 5 - 22.50.		
		Lanzoni - 9 40.50		
		Mugnano - 6 - 27.00.		
		Harris - 5 22.50		
		Peters - 15 67.50.		
		<u>46</u>	207 00	
			325 00	

MUGNANO, PAT

MR. NUGENT: Request for use variance for barber shop at residence located at 2 Cimorelli Drive in R-4 zone.

Mr. Pat Mugnano appeared before the board for this proposal.

MR. MUGNANO: I have been here before, I want to know what I got to do this time.

MR. LUCIA: I think we explained to you on your two previous applications that you are asking for something that is very difficult, you're asking for use variance. You're asking to do something in the zone, R-4 which is not permitted in the R-4 zone. You want to have a barber shop in what's designed as a residential zone. Now I know you've expressed to the board on one occasion in the past that I guess you have some physical problems and you need to work at home. And everyone on this board is sympathetic to that. Unfortunately, that is not something the board can consider when you come in for a use variance. The board has 4 specific things that it needs to determine in order to grant you a use variance and I think we have discussed them in the past and I'm giving you a copy of 267B of the Town Law. I just put a little arrow in the margin there but basically what you need to show is that under the applicable zoning you are deprived of all economic use or benefit of the property in question. That is probably best established by some kind of financial evidence. I don't know if you want to higher a real estate broker or appraiser to come in and explain to the board why it is you can't get your money out of the property unless you got this variance to put the barber shop there. What you need to show basically is that you cannot get a fair return on the property if sold only as a residence. That is a fairly steep hurdle for you to cross, I think. But see what you can come up with. You also have a have to show that the hardship is unique, that it doesn't effect any other properties in your neighborhood or zoning district. It's unique to your piece of property. Third you need to show that the variance if granted will not alter the character of the neighborhood. You

mentioned there is beauty shop nearby.

MR. MUGNANO: Beauty shop and a junk yard hundred feet away from me.

MR. LUCIA: What you need to establish is the character of the neighborhood. And that is the kind of proof you need on that one. Last you have to show hardship is not self-created, that you didn't cause this problem yourself. I'll leave it to your own devices how you're going to prove that when you have perspective barber shop but you-- each of those points must be established, you can't just get 3 of them and say well I've got 3 out of 4, that is okay. You need to establish all 4 so it is not an easy thing to do. This board certainly will entertain your application if you want to proceed with it and you have every right to come in here with the application. But I think what the board has wanted to you know at the two previous preliminaries and wants you to know again tonight so you have set a difficult road for yourself, it's not easy to do this. I think we talked in the past about you're going out--

MR. MUGNANO: This area as I understand lawyer office, doctor office, professional office, okay, I think I don't see why a barber shop is professional.

MR. LUCIA: I can't argue that point, we're bound by the zoning ordinance that the Town passes. You can stand here all day long and tell us you think your impact may be no greater than a doctor's or lawyer's office or any other professional office but that is not what the Town has said you can put in there and beauty shop is something you need to come in for a use variance until the Town changes the law we're bound, we're stuck with the law the Town has passed.

MR. MUGNANO: I want to put in an application and I'll show the 4 points whatever you have to do.

MR. LUCIA: Take this, I believe at the last preliminary we raised a question about whether this was a legal two family and whether he had C.O.s and I think that has to be explained to the board.

MR. MUGNANO: When I bought the house it was two family, I pay the taxes for two family since I bought the house and I got the house has been two family since it was built. When I bought the house if I pay two family what I know is one family if I have two family I pay two family tax.

MR. NUGENT: We raised a question on the last preliminary whether it was actually a two family house which it is.

MR. LUCIA: One of the preliminary questions was raised whether the improvements were legal so we asked Mr. Mugnano to obtain C.O.s or check the record to see if C.O.s were unnecessary and it appears that this has been two family since 1964 which would predate zoning and there are C.O.s in the file for the pool and the shed and the building, it pre-dates zoning.

MR. TORLEY: The trouble you're still up against the one high hurdle for the use variance, you actually may have, it may really be easier for you to get the Town Board to change the law and say that a barber shop is permitted than for you to try and get a use variance.

MR. MUGNANO: When is the Town Supervisor going to change the law, it's nice to say.

MR. TORLEY: Use variance is very very high hurdle.

MR. LUCIA: But if you want to try it, you can do it.

MR. NUGENT: It's not impossible.

MR. MUGNANO: One thing I want to say in New Windsor, any residential house, there is 300 beauty shops in residential house and a lot of businesses people do illegal, I want to do something legal. I'm honest. I got to go through this trouble. I got to do it the Italian way, that is it.

MR. LUCIA: All we want you to know is it's not an easy thing to do but by all means if you want to do it submit your application and the board will set you up

for a public hearing.

MR. HOGAN: We don't have an application in front of us.

MR. LUCIA: No, not yet.

MS. BARNHART: He's been in preliminarily each time.

MR. HOGAN: Is this going to be the Preliminary Hearing?

MR. LUCIA: There will, he's actually had 2 preliminary, had certain questions that Mr. Mugnano came back and answered. The last set of questions was the legality of the structures there, he's answered that to the board's satisfaction so if he wants to proceed to public hearing, that is his right.

MR. HOGAN: I'd like to hear from Mr. Mugnano since I haven't heard any of this prior, what your plans are in terms of the beauty shop or barber shop that you are planning on. What are your plans, how many chairs?

MR. MUGNANO: One chair for myself.

MR. BABCOCK: Some of the members are new, they weren't here last time so they don't understand what you're asking to do.

MR. MUGNANO: Just for me.

MR. BABCOCK: Where about is it going?

MR. MUGNANO: Downstairs by the garage.

MR. HOGAN: You don't have a photo of the house, do you?

MR. MUGNANO: No.

MR. HOGAN: Are you planning signage at all, a sign?

MR. MUGNANO: I don't think it's necessary.

MR. HOGAN: How much business do you expect to be doing?

MR. MUGNANO: About 7, 8 people a day, 3 day week.

MR. HOGAN: Anything else you'd like to add, this is the opportunity for myself, I know Mr. Langanke wasn't on before.

MR. MUGNANO: That is what I want.

MR. NUGENT: You have off-street parking?

MR. MUGNANO: I got a lot of parking, yeah.

MR. TORLEY: Here's where I feel strong about our codes, these are the kinds of operations that have no impact on the neighborhood and the law says you can't do it and we have to go to a use variance and the courts which rule us have said the use variances have to have high hurdles and they have to be meet one after the other so we're stuck.

MR. NUGENT: Do it by the book. Any other questions by the board?

MR. HOGAN: No. Are we planning on establishing a public hearing?

MR. NUGENT: Yes.

MR. HOGAN: Before we take that vote, if you are coming back for a public hearing, I'd like to see photographs of your property and precisely where you are planning on locating the shop. I'd like to see photographs of the street, the adjacent streets, intersecting streets, Cimorelli and Union looking from both directions.

MR. NUGENT: I'll accept a motion.

MR. HOGAN: I'll make the motion.

MR. TORLEY: Second it.

ROLL CALL

MR. TORLEY	AYE
MR. NUGENT	AYE
MR. TANNER	AYE
MR. HOGAN	AYE
MR. LANGANKE	AYE

MS. BARNHART: Here's some paperwork for you, if you have any questions, you can call me.

MR. LUCIA: That is an instruction sheet and underneath is an application form you have to fill that out and when you are through with it, return it to Pat. You also have to return that with two checks, one for \$50 application fee, one for \$500 deposit against Town consultant review fees and various disbursements.

MR. MUGNANO: Certified check.

MR. LUCIA: Doesn't have to be certified. Since this is a use variance, we need a County referral that is for our purposes rather than yours. We also need a short form EAF, Pat will give you that form, bring the photographs that Mr. Hogan asked for and we need to see a copy of your deed and your title policy or your search title search when you bought the place, probably your lawyer did a search. Just check your files probably with your deed.

MR. MUGNANO: Thank you.

PROPERTY DESCRIPTION

SECTION	BLOCK	LOT	TOWN OR VILLAGE	SPECIAL DISTRICT					ASSESSED VALUE			SEQ.
				SCHOOL	FIRE	LIGHT	WATER	OTHER	LAND	IMPROV.	TOTAL	
7	01	0200029	TOWN OF NEW WINDSOR	1	1	1	6	1	1/2100	24,200	34,300	N
OWNER NO.	LOCATION			DIMENSIONS		ACRES						
31510	LT 1 BLK A TEMPLE HILL EST			165X169X1R								

OWNERSHIP RECORD

OWNER ADDRESS	DEED RECORDED		
	DATE	BOOK	PAGE
MALDFELD, VAUGHN E. & HELEN E. 102 SOUTH LANDER ST. NEWBURGH N.Y. <i>of Newb. Sugs Bank 94 Broadway (Cimorelli Dr. New Windsor)</i>	10/19/64	1685	96
MUQUANO, PASQUALE F. & ANNA MARIA 2 Cimorelli DR NEW WINDSOR	7/14/75	2012	581

565-5144-

Date 6/13/92, 19.....

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12550

(7)

TO Frances Roth 38a Moores Hill DR.

New Windsor, Ny 12553

DATE			CLAIMED	ALLOWED
5/11/92	Zoning Board Meeting		75 00	
	Misc - 1			
	DeDominicis - 1			
	Mugnano - 8 pgs 36.00			
	Bonet - 11 pgs			
	Fitzgerald - 6			
	Shupe - 3			
	DeCouto - 8			
	Borden - 10			
			291 00	

STATE OF NEW YORK,
TOWN OF NEW WINDSOR

SS.

I hereby certify, that the items of this account are correct; that the disbursements and services charged therein have in fact been made and rendered, and that no part thereof has been paid or satisfied, that the amount herein mentioned is in full settlement for all services rendered and materials furnished.

Sign Here

Francis [Signature]

No.

Town of New Windsor

Nature

Amount Claimed \$

Amount Allowed \$

Filed

I hereby certify that at a meeting of

said Town Board held at the office of the

Town Clerk on the day

of, 19.....

the within claim was audited and allowed

for the sum of

\$

Clerk

May 11, 1992

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PRELIMINARY MEETING:

MUGNANO PASQUALE

MR. FENWICK: Request for use variance for barber shop in R-4 zone located at corner of Cimorelli Drive/Union Avenue.

Mr. Mugnano came before the Board.

MR. FENWICK: I know you have been here before. Did you review the minutes or did you have somebody take a look?

MR. MUGNANO: I really don't understand them so.

MR. FENWICK: Still the same. Are you going to put in the same application?

MR. MUGNANO: What you mean an application got to be some change?

MR. LUCIA: You have applied to put a barber shop in a R-4 residential zone. The zoning does not permit you to have a barber shop in that residence. That's why you are here. What I understand is you're applying to this board for a use variance to allow you to put a barber shop in your home in a R-4 zone where it's not permitted under the zoning law. That requires a use variance application. Now I think the last time you were here, we mentioned there are a number of things you have to prove to be entitled to that. It's not an easy thing to prove. I think we suggested that you might want to retain a professional to advise you in connection with your application or you said you were going to talk to somebody who might understand a little better. Have you had a chance to speak with somebody?

MR. MUGNANO: No, I figured you know it's because beauty shop across the street, you know, that's I figure it's no big deal.

MR. LUCIA: Well, it can be a big deal. It's not easy.

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MR. MUGNANO: That's the way I think because I got a beauty shop across the street.

MR. LUCIA: I don't know anything about the beauty shop across the street. I don't know if it's there by virtue of being pre-existing non-conforming use whether it has a variance so it may or may not be the same situation as you. You can research that. That might be part of your application, find out how that beauty shop existed. Maybe it's something you can use to support your application.

MR. MUGNANO: Just tell me what I have to do.

MR. LUCIA: Another question that came up at the, I think you were here September 10th of last year. Another thing that came up at that meeting was whether or not I guess the present two family house is a legal two family. And I think it was the impression at that time at least as I understood Mr. Babcock that it appeared on the assessor's records that it was a legal two family, is that correct? The only reason I raise the point is a note in the zoning Board minutes there's a pencil note after the statement where it appears that everybody is saying the assessor has a two family that the and I quote the assessor did not and underline the word not say it was legal. And that's apparently according to the assessor on October 21 of '91. So you might have to come in as part of your application and show this board why it exists as a two family.

MR. MUGNANO: I bought it like this. I paid taxes for two family. What I know?

MR. LUCIA: You bought it in 1975?

MR. MUGNANO: I pay tax for two family all the time.

MR. LUCIA: The board probably is going to want to see some evidence that--

MR. MUGNANO: What you need, all my tax?

MR. LUCIA: No because it needed to be legal from the

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guy you bought it from. Just because he had two family didn't make it legal necessarily. You need to go back to when zoning started in the Town of New Windsor.

MR. MUGNANO: One family I get back all the taxes I pay for two family from now.

MR. LUCIA: The assessor assesses what they see. If you have it occupied as two family, you'll be assessed. That doesn't mean it's legal.

MR. MUGNANO: I have been paying taxes. What I know?

MR. LUCIA: I would strongly suggest because I think the board agrees is you get professional advice, this is not going to be an easy application.

MR. MUGNANO: I get a lawyer, something like this?

MR. LUCIA: I'm not insisting you get a lawyer but it would be advisable or if you prefer talk to an engineer or somebody.

MR. MUGNANO: I want to ask you something, that's law that's a rule, it's state or town code, it's state law?

MR. LUCIA: This town has zoning. You're asking for a variance from the Town Zoning Law. The town has adopted zoning pursuant to state legislation. There's an interplay of both.

MR. MUGNANO: Because any town you know in this area have any residential, if you have beauty shop you know and for this zone it's for the doctor, okay or lawyer, I'm considered myself a service, that's a business, service, like exactly like chiropractor or doctor because you licensed under New York State Law.

MR. LUCIA: Shall I understand what you're saying but you still are bound by the zoning ordinance and if the local zoning ordinance saying you can't have a barber shop there, you can't have a barber shop there unless you get a variance for it.

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MR. MUGNANO: All right.

MR. NUGENT: That's why you're here.

MR. MUGNANO: When was the house built?

MR. MUGNANO: I don't know, '67, '65 I don't know.

MR. NUGENT: Well, it's important.

MR. LUCIA: That may go to your proof on whether it's a legal two family or not so I think it's important for you to go back and do some search and find out when the house was built. If it pre-exists zoning as a two family, you're on your way? It's not a problem again.

MR. FENWICK: Also probably going to need any C.O.'s that are on the house that bring it up to what it's present situation as it sits as far as decks, additions, whatever.

MR. BABCOCK: We have those Rich, we have after he had came in we finally issued a permit or C.O. on the pool with the deck also one on the shed. I don't have anything here saying whether the house is a legal two family house and I do remember talking about that.

MR. NUGENT: Do you have a C.O. on the house on the original house that would also give us the date?

MR. BABCOCK: I think the original house was built prior to zoning, there's an addition, there's a permit in here for an addition in May of 1970 and it says that building use one family.

MR. NUGENT: That could be the addition.

MR. BABCOCK: That's what I am saying.

MR. LUCIA: I would strongly suggest you do some research.

MR. MUGNANO: I want to say one more thing about the C.O. I had a permit, I had a permit. The reason I

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never know if the permit if the C.O. from Mr. Babcock said when you finish you got to call us, look like we make a recommendation, not a big deal like I kill 20 people and this look like I'm going to kill 20 people? I don't have exactly just because my engineer, I don't have something that say you got to do this. You got to do this you got to do this. It's very easy. I'm not asking for welfare check. I'm asking to do something to make a living. That's it.

MR. LUCIA: The board understands that and you shouldn't take anything, the board says as in any way reflects on you or your way of making a living or what you want to do with your property.

MR. MUGNANO: If I can't, I can't. I no worry about it. Go to welfare and make better than you.

MRS. BARHNART: Here's your paperwork, I don't know are you going to set him up or not?

MR. LUCIA: It's up to you, you have a right to proceed with the variance application. There's no doubt about that. But based on what you have come in and said to you, for your own benefit, I would strongly recommend you hire some professional help to help you get the paperwork done. It's going to be for your benefit in the long run. You don't have to, the board can't make you go out and hire a professional. If you want to present the application, you have that right and if you want to ask the board they'll adopt a motion to set you up for a public hearing but I'm telling you for your own benefit you should get some advice on this because it's not an easy thing to do mug.

MR. MUGNANO: I make an application and I get somebody like understand better.

MR. LUCIA: That's fine.

MR. MUGNANO: I want to make an application, I try.

MR. FENWICK: I would suggest I know it's up to the members of the board and how they want to vote but

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right now we have just like the attorney said to you there are three criteria that you have to meet in order for this to happen, for you to come in that night and have possibly be not prepared or very possibly spend all the money for this application and everything else like that to come in here and not have everything ready. Okay, in other words, if it winds up into a guessing or question and answer period or we're doing all your leg work for you, you could be on the losing end of this whole situation. I think I would like to see him back again with the questions answered in other words look in here, it will tell you the questions that are asked for a use variance and have those answers and we can help you out or tell you that no, this is not the answer that we're looking for or that's fine and whatever. I'd rather see that happen than you go through all this expense, come in here not have the answers ready for us. Actually you're wasting your time and believe me a public hearing is really expensive, now really expensive.

MR. MUGNANO: All right I do this way if somebody can explain to me like you know I accept, no problem.

MR. LUCIA: Do you want to talk to somebody who can explain it to you a little better and then come back to us with that?

MR. MUGNANO: You just said you got to explain to me what I have to do.

MR. NUGENT: In the paper. You might want to go over that piece of paper.

MR. LUCIA: Take this with you since this is a use variance there are a number of tests that you have to meet, in other words, things this board has to find before you can get a use variance. You have to prove something that's called unnecessary hardship. There are three things I'm putting this on the record so that when you get a copy of these minutes, you can take these minutes to whoever it is that's going to represent you and they can explain to you better what it is you need, okay. You need to come back to get

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this use variance in order to put your barber shop there you have to prove something called unnecessary hardship. There are three things you have to prove to this board for them to find unnecessary hardship. The first one is the land cannot yield a reasonable return if it is used for any purpose allowed in the zone. That's basically a dollars and cents proof. It means you can't get your money out of this property unless you're allowed to have a barber shop there. I understand you have personal considerations and you want to earn a living there because of an injury in the past or something. While the board is sympathetic to that, we can't make a decision on that basis. It has to be made strictly on the land. So you need proof that the land as it sits in the present zone will not give you a reasonable return. You can't get your money out of the property.

MR. MUGNANO: What you mean money?

MR. LUCIA: You paid \$100 for the property, if you had to sit as a residence, you might not get your \$100 back. That's not getting a reasonable return on the property. If you had a barber shop in there maybe you can sell the property for \$110, that's getting your money back, that's the kind of dollars and cents proof you need. That's one. Two, you have to show your problem is unique. That means nobody else around you has the same problem with their property. So that's the reason I suggest you might want to do some research on the beauty parlor across the street. Maybe it's the same situation, maybe it isn't but you're going to have to find out and you have to tell this board about it. The third thing that the variance will not alter the essential character of the neighborhood. That putting a barber shop in your neighborhood is not going to substantially change the rest of the neighborhood. That's really going to be your proof based on what else is around you. Beauty shop might come in on your side on that one but you need to establish all three of those things in order for this board to grant you a use variance. I suggest you take the application that the chairman has given you, get a copy of these minutes when they're ready at the next meeting, take it all to

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whoever it is that's going to help you, let him or her look at it then come back to us.

MR. MUGNANO: Okay. When you want me to come back?

MR. LUCIA: Maybe a motion to table and when you're ready to come back, give Pat a call.

MR. NUGENT: I'll make a motion we table this preliminary hearing until further information is available.

MR. TORLEY: I'll second it.

ROLL CALL

MR. TORLEY	AYE
MR. TANNER	AYE
MR. NUGENT	AYE
MR. FENWICK	AYE

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BONET, CATHERINE

MR. FENWICK: Request for five ft. rear yard variance to construct deck at premises located at 15 Cherry Avenue in R-4 zone.

Mrs. Catherine Bonet came before the Board.

MR. FENWICK: Tell us what you want to do.

MRS. BONET: We just want to put a deck on the back of the house big enough to put the furniture and tables on, just to use for the family.

MR. BABCOCK: I think you gentlemen remember this project, Small Town Land Inc. down there, there was a garage with a property line that went right through it. And they moved the property line and they needed variances to do that. I have a copy of the survey, Rich, right there in the front if you see the garage, you'll see the old line that went right through the center of the garage. See the garage on the adjoining property, see the light line that goes through there, and there's a lot of discussion to make a non-conforming lot less non-conforming.

MR. LUCIA: The interesting thing about that is and this application I guess is going to bring it all to a head. The original subdivision map for this area was called Clancy Terrace filed back in 1916 showed a lot which has different dimensions obviously than what you're presented with now and obviously that original lot was pre-existing, non-conforming. We now have a transfer of this triangle on the northeast side of the parcel to the Duda's, is that true, that occurred fairly recently.

MRS. BONET: That had nothing to do with us. That was done before by the person that built the house and done before we even owned the house.

MR. LUCIA: How long would ago was that done?

MRS. BONET: The house was only up since 1989.

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MR. LUCIA: That change made this lot even more non-conforming than it was because it reduced an area apparently. So the question comes up you're now applying for a, is it a rear yard variance.

MRS. BONET: It's not anywhere near this. That's the side of our house.

MR. LUCIA: Just hear me out for a moment though. The lot has apparently been reduced from a size it was on the original Clancy Terrace Subdivision map so I guess the question becomes whether as part of this whole application you want to also apply for variances on the other non-conforming, it's apparently under for minimum lot area, minimum lot width, required front yard, required side yard, you know if we're going to do it should we do the whole thing?

MR. BABCOCK: When we discussed this at the last time time the way I remember it that's why I have a copy under the non-conforming lots it would meet most of the criteria that you are talking about if not all with water and sewer 5,000 square feet, 35 foot front yard.

MR. FENWICK: Good side yards.

MR. BABCOCK: It would only need 12 foot side yards, 40 foot rear yard and that's what we based our building permit on.

MR. LUCIA: It did he meet non-conforming?

MR. BABCOCK: Yes.

MR. LUCIA: Okay.

MR. TORLEY: Half your problem just went away.

MR. FENWICK: Tell us about the size of the deck.

MRS. BONET: The deck is just going to be 12 feet going back and 14 feet across to match the one that's already there. It's just extending what's already on

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the side. We're going to go 12 feet back.

MR. FENWICK: You're not any further to the side, your just going straight out the back yard?

MRS. BONET: Yes. There's a small platform for the steps coming down from the kitchen.

MR. LUCIA: Those steps would be in a required side yard.

MR. BABCOCK: Right now, she has 8 feet to the 40 foot required rear yard.

MR. LUCIA: Just referring to the side lot because the porch and steps would be in a what is required side yard at 15, if she's extending that line straight back do we need a side yard variance?

MRS. BONET: The side isn't changing.

MR. LUCIA: I understand.

MR. BABCOCK: I know what you're saying.

MR. LUCIA: It looked from the sketch like she's going directly back from the step line which probably is a required side yard.

MR. FENWICK: What's the side yard on the small lots, 12?

MR. BABCOCK: It's a variable depending on the lot width. Lots with width of 50 and less than 80 which is she's maybe developed with side yards on each side of at least 12 feet.

MR. FENWICK: Each side 12?

MR. BABCOCK: Right but still this deck that she has there is five feet I understand what Dan is saying. Do you have this sketch on the back of the building permit what they're doing is going straight back from the deck so when they come out of the house they can go either

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to the back deck or down the stairs to the front. As it sits, the way the code and I think the entrance porch is 6 foot by 8 foot is exempt from setbacks. Which this porch as you see it on the original survey would be exempt. What Dan is saying now that if we attach that and continue that straight back, make it part of the deck it wouldn't be exempt to. What Dan is saying we need a said yard variance.

MR. NUGENT: As well?

MR. BABCOCK: As well.

MR. LUCIA: Did you understand that?

MRS. BONET: No.

MR. BABCOCK: Basically, this entranceway that you have here is less than 6 foot by 8 foot so it's exempt from the requirements of being so far from a property line. Once you build this deck back like this, now this is part of the setback so now not only you got to be 40 feet here, you have to be 12 feet here and you're only 11.

MR. LUCIA: All it means is that in addition to applying for the rear yard variance of 5 feet, you also must apply for a side yard variance of one foot or maybe you want to measure that a little more accurately, just means you're applying for two variances instead of one but we ought to get everything out of the way in one application.

MR. TORLEY: This guarantees to be totally legal and you won't have any trouble selling the house.

MR. BABCOCK: The farther back the house goes it's getting farther away from the property line, did you see that Dan?

MR. LUCIA: No, I didn't.

MR. BABCOCK: It's minor but it's definitely going away. That deck that's on there now is 5 feet, you're

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sure of that?

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MRS. BONET: The person who did the measurements is a friend of ours who does this.

MR. BABCOCK: From here to here is 5 feet.

MRS. BONET: From what he told me.

MR. LUCIA: You might want to doublecheck the measurements for your own protection because when you come in to the board to apply for a variance the board doesn't do an independent review on the measurements. If it turns out you're off and you go to sell the house and the surveyor says wait a minute you need a foot and a half instead of a foot, you've not advanced your application any so it's very important that those measurements be done exactly and submitted to the board especially if the house isn't parallel to the line.

MR. BABCOCK: On this survey that they drew they show the house at 16 feet, the people that helped them out and it's actually 14 foot 7, by the survey it's 14 foot 7 and whoever drew this said it was 16, so there's a couple foot difference.

MRS. BONET: What do I have to do?

MR. BABCOCK: We need to know how far this is from here to the property line is, either we need to know the size and we can deduct it from the 14'7", and we know you're not getting any farther than the point here.

MR. FENWICK: Which may be the way to go rather than take hearsay, you know, on a surveyor's map that you are 14'7" right now so you just measure out from the house what your deck is.

MRS. BONET: This is 5 feet out then I have to go for a variance for how many feet?

MR. LUCIA: That would put you 9 foot 7 off the property line you need 12 so you did need a variance of 2.3 feet.

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MRS. BONET: Is that all right?

MR. LUCIA: That's all right but the thing is when you build the deck you need to insure that you never get closer to that property line than 9.7. Measuring becomes very critical so I don't know if you want to engage a surveyor to just shoot that side and give you your distances that has to be up to you but it becomes real important.

MRS. BONET: Ask for what I need iw what you're saying.

MR. TORLEY: Give yourself a foot or so to make sure when they build it somebody might drive a nail in differently, we've had that happen.

MR. FENWICK: You do not have to go to a surveyor as far as we're concerned. We want you to give us an accurate drawing all right, an accurate drawing to the best of your ability or whatever. Do you not feel that you can get an accurate measurement, then you would go to a surveyor or somebody that can take care of that if you were to come in here and say I need a variance for two foot or the next meeting that you are on the agenda that I am go going to need a variance on the side of 2 foot 3 inches that's how we'll base it. We have no problem with that if it turns out down the line that you are actually a little bit further than that then you could come into problems, it happens when it comes to time to sell the house somebody else gets it surveyed finds out you're three inches off. So you might want to hedge your bet a little bit, maybe make it 2 foot 6 or something like that.

MRS. BONET: Can I do what was just suggested and apply for 4 feet on the side just to have the extra?

MR. FENWICK: Fine, sure you can apply for anything you want. I wouldn't over do it because you're going to have neighbors and they're going to say you're going to extend out 6 feet if you can say I'm going to--

MRS. BONET: Our neighbors know the plans and they have

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no problem.

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MR. FENWICK: The plans that you present to us will in fact be part of the record and on part of that record, if you say that you want a variance for 3 foot or whatever but I'm extending back with the same line of the porch that's there now, that's the record.

MRS. BONET: What I am confused about if this side is already here I have to go for a second variance because I'm extending it back.

MR. FENWICK: You don't have to come to another meeting you don't have to pay anymore, we're just going to get everything written down on the application the way it should be. There's more than one line you could have had property coverage, it could have been front yard, side yard whatever. We just want all of this filled in correctly as to what you're referring to so now we know that there's a little bit of a side yard problem so it will be taken care of on this line.

MR. LUCIA: We need to get all your variance requests out of the way in one single application. We're setting it up to do that.

MR. TORLEY: Just trying to make sure that all your ducks are in a row and you won't have any problems.

MR. BABCOCK: I've changed the numbers, side yard variance of 4.7 feet that would allow here a 6 foot deck there. That's if the 4 by 4 railings hang over.

MRS. BARNHART: Get it in writing.

MR. BABCOCK: 4.7 feet.

MR. TORLEY: The lawyers, this may sound a little strange but it has happened people have put up a dwelling and have it off by one inch and it has completely loused up the sale of the house so we want to make sure that you are safe.

MR. LUCIA: As long as it's ultimately built it's

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within the variance request, you're okay.

MRS. BONET: Has to be smaller than what we're allowing?

MR. BABCOCK: You're going to continue from that side of the deck. When you have an existing line and you talk to Frank in my office you can continue that existing line and that would be true in the case if that was a larger deck and met the criteria since that was exempt nobody even cared about it until today, till you went to add to the deck.

MR. FENWICK: Please read what the request for a variance is.

MR. BABCOCK: Okay we have revised notice of the approval, we need required side yard I think they have 12 feet proposed or available, I'm sorry, the side yard requirement is 12 foot, they have 8.7 foot which requires 4.7 foot, side yard variance and also a 5 foot rear yard. That's not right, it's 4.3.

MR. LUCIA: 3.3.

MRS. BONET: 3.3 allows for the 5 foot.

MR. BABCOCK: Allows for 6 foot.

MR. LUCIA: Is that enough of a margin that you feel is adequate for your comfort?

MRS. BONET: Yeah, I don't have a--

MR. LUCIA: The board only reacts to the figures you give us. We can't in any way guarantee that the deck is built that way but as long as you build it within these parameters you should not have a problem.

MR. FENWICK: I'll ask you Dan to explain the proofs.

MR. LUCIA: If the board sets you up for a public hearing, you'll have to come back again and the neighbors will be notified of the application for the

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two variances for side and rear yard. These are both areas variances, you have to establish something called practical difficulty. That's done by your showing significant economic injury from the application of the existing zoning ordinance to your land. Basically, it's a comparison of the cost of the parcel compared to its value as zoned, why it is that you need this variance in order to get or in order to avoid showing significant economic injury why it is maybe all your neighbors have decks, maybe you need a deck to adequately use the house. Why it is that you need a variance to put this sized deck. As part of it, you should show why you can't get by with a smaller variance. Why you can't locate the deck someplace else that either doesn't need a variance at all or could get by with a lesser variance than you are applying for. If you are using this existing stairs and landing that's part of it because you have some money in that, that you don't have to repeat if you put a deck and stairs someplace else in the lot. That about covers it. I'd like to see when you come back a copy of your deed, copy of your title policy or search that presumably your attorney got when you got the property. We'd like to see some photographs of the existing house, stairs and where the deck is going to go. I think on this also we probably would need a county referral as I look at the tax map this is probably less than 500 feet from this property to Walsh Avenue. Is that County road?

MR. BABCOCK: No, Walsh is a town road.

MR. LUCIA: Not a problem, okay. And when you return with the application you also need 2 checks both payable to the Town of New Windsor, one for \$50 for application fee and one for \$250 for deposit against town consultant fees and other town expenses in connection with handling this application. Deposit means we do not know how much those expenses are going to be. If they're less than \$250 you'll get a refund. If they're more you'll get a bill for whatever the excess is.

MRS. BONET: Does it often go more than that?

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MR. LUCIA: It depends on how complicated the application is.

MRS. BONET: Is this considered complicated?

MR. LUCIA: No, not normally but you never know until your neighbors show up again.

MR. FENWICK: A favor to you might be to contact your neighbors.

MRS. BONET: They all know.

MR. FENWICK: And also along that same line, that if they're in favor of it, 30 of them don't come in here and go I'm in favor of it because everything that happens at the public hearing you're going to pay for, in paperwork and fees, part of this \$250 that we're talking about right now so if you have people that are in favor and you have one person that can stand up and say --

MRS. BONET: Someone has to come in even--

MR. FENWICK: No not at all. We've seen it where people think they're doing you a favor and they say we really like that and the steno is just running your bill up.

MR. TANNER: The meter is running.

MR. FENWICK: If you can contact them all and they're in favor they do not have to come back, they've to be to notified which is another fee that you'll be hit with also.

MRS. BONET: Which is another fee?

MR. FENWICK: Part of the list.

MRS. BARNHART: It's all explained in here.

MR. LUCIA: Basically have to buy a list from the

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assessor who your neighbors are, you have to pay for publication, all things that are required in order for this board to conduct a public hearing.

MRS. BONET: Okay so right now what I have to do is pictures, and follow that.

MR. LUCIA: Pictures, deed, copy of the title policy all back to the public hearing.

MRS. BONET: When is that?

MR. LUCIA: Whenever you get this application in you then will be set up for a public hearing.

MRS. BONET: So come back here?

MR. LUCIA: Bring it back to Pat.

MRS. BARNHART: Just read what it is on the procedure.

MR. TORLEY: It's a government form that's actually understandable.

MR. LUCIA: If you have a question call Pat.

MR. NUGENT: I'd like to make a motion that we set this up for a public.

MR. TANNER: I'll second it.

ROLL CALL

MR. TORLEY	AYE
MR. TANNER	AYE
MR. NUGENT	AYE
MR. FENWICK	AYE

MUGNANO, PASQUALE F.

MR. FENWICK: This is a request for a use variance to have a beauty shop at 2 Cimorelli Drive in R-4 zone.

Mr. Pasquale Mugnano came before the Board representing this proposal.

MR. MUGNANO: It is a barber shop.

MR. FENWICK: This is a use variance in order to have a use variance, you have to not to be able to prove a hardship, you have got to be able to prove why you would have a barber shop in there.

MR. MUGNANO: Okay.

MR. FENWICK: It can't be unique, okay, which apparently it's going to be, it's also got to be a hardship to the property, not particularly to you, okay, this is a use, this isn't an area variance. You are going to be, this is a particular use that you are going to have there.

MR. MUGNANO: I can't work, the reason I put this, I've got surgery to my neck and I can't find any job right now and the reason maybe if I can do a few hours a day, if I work for myself--

MR. LUCIA: This Board has certain legal standards that it has to comply with a variance application and they don't mean to be unsympathetic to your personal problems but they only must consider issues related to the property.

MR. MUGNANO: I want to work just for myself.

MR. LUCIA: When you come in with your application, the issues you speak to must have to deal with the property, not with your personal situation and to grant you a use variance, the Board has to find something called unnecessary hardship. What the Chairman is explaining to you there are three standards that this Board has to find in order to give you a use variance. The first is the dollars and sense item. You have to be able to show the land cannot yield a reasonable return if it is used only for its residential use. That one is going to be hard for you because you and your neighbors probably bought the property as a residential use, okay, and what you are going to have to show is it doesn't yield a reasonable return, you can't turn around and sell that property for what is worth as just a residence. You need to put the residence in, that is going to be a tough standard for you to get by.

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The second one is you have to show that it won't alter the essential character of the locality. So, you really have to come in and show that there are other businesses or other types of operations nearby. Take a look at your neighborhood and see if you can meet that.

And the third one is that it must be unique to this parcel. The hardship has to apply only to you and not to your neighbors equally. They are complicated tasks. It is a difficult situation for you to prove each of the three of those to show you need a use variance. The Board will certainly entertain your application if you want to pursue it but the Board would like you to know now that it's not an easy matter to prove a use variance. It is a tough thing to do.

MR. MUGNANO: If you told me now what I got to prove what I got to do, you can write for me what you said because I can't understand.

MR. FENWICK: This is the house on the left hand side with the big pool in the back?

MR. MUGNANO: Yes.

MR. FENWICK: Do we have building permits for everything that we are looking at there?

MR. BABCOCK: We did the research with the assessor's office and there was some question on what you are asking right now. So, what we did is we sent an assessor up there to look at the house before we sent him here and what was on the assessment card and what is there is legal use as far as the two-family house.

MR. FENWICK: It is?

MR. BABCOCK: Yes.

MR. FENWICK: Okay, it is R-4, correct?

MR. BABCOCK: Yes.

MR. FENWICK: How did it become two-family use?

MR. BABCOCK: Rich, I have to be very honest with you, I don't know, I relied on what the assessor told me whether it was nonconforming or whether it was a variance or what it was, that is the information that got supplied to me. If you want, I will supply it to you.

MR. FENWICK: You have C.O.'s for all of the work that is done on that property as far as the pool and all that stuff?

MR. BABCOCK: Keep in mind, we, I personally did not do an inspection of the piece of property. The assessor went there to see if it was legal. What happened was it was two-family house and that is the first thing I questioned when the gentleman came in if it is a legal two-family house. When the assessor came back and said it was a legal two-family house, that is it. *Assessor did not say it was legal. Per Leslie 10/21/91.*

MR. TORLEY: How did the assessor know it was a legal two-family house?

MR. BABCOCK: You will have to ask the assessor.

MR. MUGNANO: When I bought it, it was like this.

MRS. BARNHART: Who is the previous owner, do you remember the name?

MR. MUGNANO: No.

MR. FENWICK: How long have you owned this house?

MR. MUGNANO: '75.

MR. LUCIA: Do you remember the name?

MR. MUGNANO: Mansfield (phonetic), something like that.

MR. FENWICK: Do you know what I am asking for? We have an enormous deck in the back, do we have records of that, are they in fact as far as C.O.'s and pool and all that kind of stuff?

MR. BABCOCK: Like I said, I didn't do an inspection as far as the decks, swimming pools or whatever. Alls I did is that the gentleman made his application out saying that he has an existing two-family house. That is the research I did.

MR. TORLEY: One other problem we had a previous case where the applicant wanted to put in a beauty parlor and by the permitted accessory uses, that wasn't a permitted accessory use. We went back and talked with the Town Board and they had decided not to let--

MRS. BARNHART: They were going to put it on but they decided not to because of the points as far as the water is concerned that they use.

MR. TORLEY: So that they consider whether to make a beauty parlor a permitted accessory use and decided not to.

MR. FENWICK: That is right.

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MR. BABCOCK: If it was a permitted accessory use, he wouldn't be here.

MR. TORLEY: The fact that the Town Board considered whether or not it should be permitted accessory, decided that it should not be, I think has bearing on what our decision was.

MR. BABCOCK: Just like all the other laws, that is why they are here.

MR. NUGENT: That is why we are here.

MR. BABCOCK: That is why I am here. Just for your knowledge, it is not a home professional office, okay, if it was a home professional office, the gentleman wouldn't be here also.

MR. FENWICK: That is right. We have been, as far as I know, we have been confronted with this by the town. We have also, I think, everybody here has read in the legal decisions down from the State in that pamphlet that we get a couple times a year and it's just going to be like the lawyer or our attorney explained to you. I don't know what else to tell you. I know it is hard for you to understand. Very possibly maybe you should get someone, a lawyer for yourself and have him explain it to you better or have him represent you.

MR. MUGNANO: How about if I bring a regular person, somebody to understand better the application.

MR. NUGENT: You don't have to have an attorney.

MR. FENWICK: You don't have to have an attorney but we are trying to help you out. You are having a hard time understanding

MR. LUCIA: It's a very complicated legal standard that you have to meet and you might best serve your own interest if you got some professional help, whether it is an attorney or an engineer or somebody who is used to doing this type of application so that they can specifically speak to the three issues that I raised. You certainly have a right to come back here. We are not telling you that you shouldn't come back. All we are trying to tell you is it is a difficult road for you to follow and achieve a use variance but you certainly if you want to set it up for a public hearing, you have a right to ask for that. We are trying to help you, tell you what the standards are so you know.

MR. MUGNANO: Whatever I got to do, I will do.

MR. LUCIA: You certainly can do it by yourself or you can certainly if you feel somebody else can help you.

MR. MUGNANO: Maybe I find somebody else help me to understand.

MR. LUCIA: We just want you to understand it's difficult.

MR. MUGNANO: I got to fill out an application.

MR. TORLEY: That is not the difficult part. The difficult part you have to come back here and make a case that says that meets the criteria for a use variance.

MR. MUGNANO: What you mean?

MR. TORLEY: You have to come back in and be able to prove that you can't get a return, it's a difficult that you couldn't have foreseen when you had that house.

MR. FENWICK: Is there some way we can look into this to make sure that everything on the house is up to date? I don't care what the assessor says.

MR. NUGENT: Why are we getting involved in that? Why are we getting involved that is not what is before us. That is his problem.

MR. LUCIA: We can require that he come in with a plot plan showing everything he's got.

MR. NUGENT: Under the circumstances that this should be postponed for the time being until the applicant has had a chance to either acquire counsel or someone that can help him out with the understanding of what we are asking for.

MR. LUCIA: Wait until next meeting. The minutes from this meeting will be available everything that's been said will be tagged out for you. Take that, read it over. Once you understand that a little better then you can decide whether you want to go out and hire a lawyer or do it yourself. That sounds reasonable. We can table it for a month when you get the minutes

MR. MUGNANO: When I can pick them up?

MR. LUCIA: They should be available after the next meeting, within two weeks. Call Pat, who is the secretary, and get them from her.

MR. MUGNANO: This way I can come back with somebody understand, that is what you mean?

MR. LUCIA: Take a look at it at your leisure, see if you understood it and get some professional help.

MR. TORLEY: Get a friend.

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MR. NUGENT: I make a motion we table it.

MR. MUGNANO: I have to prove any other business in the area?

MR. LUCIA: Three things I told you about before.

MR. KONKOL: I will second that.

ROLL CALL:

Mr. Finnegan	Aye
Mr. Torley	Aye
Mr. Tanner	Aye
Mr. Nugent	Aye
Mr. Konkol	Aye
Mr. Fenwick	Aye